

## [COMMITTEE PRINT]

JULY 11, 2002

### [Showing the Amendment Adopted by the Committee on Transportation and Infrastructure]

107TH CONGRESS  
2D SESSION

# H. R. 5005

To establish the Department of Homeland Security, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2002

Mr. ARMEY (for himself, Mr. HASTERT, Mr. DELAY, Mr. WATTS of Oklahoma, Mr. COX, Ms. PRYCE of Ohio, Mrs. CUBIN, Mr. TOM DAVIS of Virginia, Mr. BLUNT, Mr. PORTMAN, Mr. ADERHOLT, Mr. AKIN, Mr. BALLENGER, Mr. BARR of Georgia, Mr. BASS, Mr. BEREUTER, Mr. BOEHLERT, Mr. BONILLA, Mrs. BONO, Mr. BRADY of Texas, Mr. BROWN of South Carolina, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALVERT, Mr. CAMP, Mr. CANTOR, Mrs. CAPITO, Mr. CASTLE, Mr. CHAMBLISS, Mr. COOKSEY, Mr. CRENSHAW, Mrs. JO ANN DAVIS of Virginia, Mr. DREIER, Mr. DEMINT, Ms. DUNN of Washington, Mr. EHRLICH, Mr. ENGLISH, Mr. FERGUSON, Mr. FORBES, Mr. FOSSELLA, Mr. GANSKE, Mr. GEKAS, Mr. GIBBONS, Mr. GILMAN, Mr. GILLMOR, Mr. GOODE, Ms. GRANGER, Mr. GREEN of Wisconsin, Mr. GREENWOOD, Mr. GRUCCI, Mr. HANSEN, Ms. HARMAN, Ms. HART, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HEFLEY, Mr. HERGER, Mr. HOEKSTRA, Mr. HORN, Mr. HOUGHTON, Mr. ISSA, Mr. JENKINS, Mrs. JOHNSON of Connecticut, Mr. KELLER, Mrs. KELLY, Mr. KING, Mr. KOLBE, Mr. LAHOOD, Mr. LINDER, Mr. McCREERY, Mr. McKEON, Mr. MALONEY of Connecticut, Mr. MANZULLO, Mr. DAN MILLER of Florida, Mr. GARY G. MILLER of California, Mrs. MORELLA, Mrs. MYRICK, Mr. NUSSLE, Mr. OSBORNE, Mr. OXLEY, Mr. PICKERING, Mr. PITTS, Mr. PUTNAM, Mr. REHBERG, Mr. ROHRBACHER, Mr. ROYCE, Mrs. ROUKEMA, Mr. RYUN of Kansas, Mr. SAXTON, Mr. SCHROCK, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHAW, Mr. SHAYS, Mr. SHERWOOD, Mr. SIMPSON, Mr. SKEEN, Mr. SOUDER, Mr. SWEENEY, Mr. TANCREDO, Mr. TAUZIN, Mr. THORNBERRY, Mr. TIBERI, Mr. UPTON, Mr. SHIMKUS, Mr. WALDEN, Mr. WAMP, Mr. WELDON of Pennsylvania, Mr. WELLER, Mr. WHITFIELD, Mr. WICKER, Mrs. WILSON of New Mexico, and Mr. WILSON of South



Carolina) (all by request) introduced the following bill; pursuant to House Resolution 449, referred to the Select Committee on Homeland Security for a period to be subsequently determined by the Speaker, and in addition to the Committees on Agriculture, Appropriations, Armed Services, Energy and Commerce, Financial Services, Government Reform, Intelligence (Permanent Select), International Relations, the Judiciary, Science, Transportation and Infrastructure, and Ways and Means, for a period ending not later than July 12, 2002, in each case for consideration of such matters as fall within the jurisdiction of the committee concerned

[Omit the part struck through and insert the part printed in *italic*]

## A BILL

To establish the Department of Homeland Security, and  
for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Homeland Security Act of 2002”.

6       (b) **TABLE OF CONTENTS.**—The table of contents for  
7       this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Construction; severability.
- Sec. 4. Effective date.

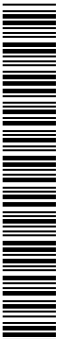
### TITLE I—DEPARTMENT OF HOMELAND SECURITY

- Sec. 101. Executive department; mission.
- Sec. 102. Secretary; functions.
- Sec. 103. Other officers.

### TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

- Sec. 201. Under Secretary for Information Analysis and Infrastructure Protection.
- Sec. 202. Functions transferred.
- Sec. 203. Access to information.

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Sec. 204. Information voluntarily provided.

TITLE III—CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND  
NUCLEAR COUNTERMEASURES

Sec. 301. Under Secretary for Chemical, Biological, Radiological, and Nuclear  
Countermeasures.

Sec. 302. Functions transferred.

Sec. 303. Conduct of certain public health-related activities.

Sec. 304. Military activities.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

Sec. 401. Under Secretary for Border and Transportation Security.

Sec. 402. Functions transferred.

Sec. 403. Visa issuance.

*Sec. 404. Functions of Transportation Security Administration.*

*Sec. 405. Functions of Administrator of General Services.*

*Sec. 406. Retention of Coast Guard functions.*

*Sec. 407. Interagency Security Committee.*

*Sec. 408. Annual assessment of terrorist-related threats to public transportation.*

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

Sec. 501. Under Secretary for Emergency Preparedness and Response.

Sec. 502. Functions transferred.

Sec. 503. Nuclear incident response.

Sec. 504. Definition.

Sec. 505. Conduct of certain public health-related activities.

*Sec. 506. Role of Federal Emergency Management Agency.*

TITLE VI—MANAGEMENT

Sec. 601. Under Secretary for Management.

Sec. 602. Chief Financial Officer.

Sec. 603. Chief Information Officer.

TITLE VII—COORDINATION WITH NON-FEDERAL ENTITIES; IN-  
SPECTOR GENERAL; UNITED STATES SECRET SERVICE; GEN-  
ERAL PROVISIONS

Subtitle A—Coordination With Non-Federal Entities

Sec. 701. Responsibilities.

Subtitle B—Inspector General

Sec. 710. Authority of the Secretary.

Subtitle C—United States Secret Service

Sec. 720. Functions transferred.

Subtitle D—General Provisions

Sec. 730. Establishment of human resources management system.

Sec. 731. Advisory committees.

Sec. 732. Acquisitions; property.

Sec. 733. Reorganization; transfer.



- Sec. 734. Miscellaneous provisions.  
 Sec. 735. Authorization of appropriations.

## TITLE VIII—TRANSITION

- Sec. 801. Definitions.  
 Sec. 802. Transfer of agencies.  
 Sec. 803. Transitional authorities.  
 Sec. 804. Savings provisions.  
 Sec. 805. Terminations.  
 Sec. 806. Incidental transfers.

## TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

- Sec. 901. Inspector General Act.  
 Sec. 902. Executive schedule.  
 Sec. 903. United States Secret Service.  
 Sec. ~~904. Coast Guard.~~  
 Sec. ~~905.~~904. Strategic national stockpile and smallpox vaccine development.  
 Sec. ~~906.~~905. Select agent registration.  
 Sec. ~~907.~~906. National Bio-Weapons Defense Analysis Center.  
  
*Sec. 907. Transportation security.*  
*Sec. 908. Transfer of certain security and law enforcement functions and authorities.*

TITLE X—COAST GUARD FUNCTIONS RELATING TO DEPARTMENT  
OF HOMELAND SECURITY

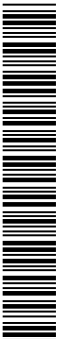
- Sec. 1001. Under Secretary of the Coast Guard.*  
*Sec. 1002. Maintenance of allocations of funding for Coast Guard operation and maintenance.*

1 **SEC. 2. DEFINITIONS.**

2 Unless the context clearly indicates otherwise, the fol-  
 3 lowing shall apply for purposes of this Act:

4 (1) The term “American homeland” or “home-  
 5 land” means the United States, in a geographic  
 6 sense.

7 (2) The term “assets” includes contracts, facili-  
 8 ties, property, records, unobligated or unexpended  
 9 balances of appropriations, and other funds or re-  
 10 sources (other than personnel).



1           (3) The term “Department” means the Depart-  
2           ment of Homeland Security.

3           (4) The term “emergency response providers”  
4           includes Federal, State, and local government emer-  
5           gency public safety, law enforcement, emergency re-  
6           sponse, emergency medical, and related personnel,  
7           agencies, and authorities.

8           (5) The term “executive agency” means an ex-  
9           ecutive agency and a military department, as de-  
10          fined, respectively, in sections 105 and 102 of title  
11          5, United States Code.

12          (6) The term “functions” includes authorities,  
13          powers, rights, privileges, immunities, programs,  
14          projects, activities, duties, responsibilities, and obli-  
15          gations.

16          (7) The term “local government” has the mean-  
17          ing given in section 102(6) of the Robert T. Stafford  
18          Disaster Relief and Emergency Assistance Act (Pub-  
19          lic Law 93–288).

20          (8) The term “major disaster” has the meaning  
21          given in section 102(2) of the Robert T. Stafford  
22          Disaster Relief and Emergency Assistance Act (Pub-  
23          lic Law 93–288).

24          (9) The term “personnel” means officers and  
25          employees.



1           (10) The term “Secretary” means the Secretary  
2           of Homeland Security.

3           (11) The term “United States”, when used in  
4           a geographic sense, means any State (within the  
5           meaning of section 102(4) of the Robert T. Stafford  
6           Disaster Relief and Emergency Assistance Act (Pub-  
7           lic Law 93–288)), any possession of the United  
8           States, and any waters within the jurisdiction of the  
9           United States.

10 **SEC. 3. CONSTRUCTION; SEVERABILITY.**

11           Any provision of this Act held to be invalid or unen-  
12           forceable by its terms, or as applied to any person or cir-  
13           cumstance, shall be construed so as to give it the max-  
14           imum effect permitted by law, unless such holding shall  
15           be one of utter invalidity or unenforceability, in which  
16           event such provision shall be deemed severable from this  
17           Act and shall not affect the remainder thereof, or the ap-  
18           plication of such provision to other persons not similarly  
19           situated or to other, dissimilar circumstances.

20 **SEC. 4. EFFECTIVE DATE.**

21           This Act shall take effect thirty days after the date  
22           of enactment or, if enacted within thirty days before Janu-  
23           ary 1, 2003, on January 1, 2003.



1           **TITLE I—DEPARTMENT OF**  
2           **HOMELAND SECURITY**

3   **SEC. 101. EXECUTIVE DEPARTMENT; MISSION.**

4           (a) ESTABLISHMENT.—There is established a De-  
5   partment of Homeland Security, as an executive depart-  
6   ment of the United States within the meaning of title 5,  
7   United States Code.

8           (b) MISSION.—(1) The primary mission of the De-  
9   partment is to—

10           (A) prevent terrorist attacks within the United  
11   States; *and*

12           (B) reduce the vulnerability of the United  
13   States to terrorism; ~~and~~

14           ~~(C) minimize the damage, and assist in the re-~~  
15   ~~covery, from terrorist attacks that do occur within~~  
16   ~~the United States.~~

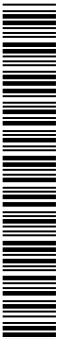
17           (2) In carrying out the mission described in para-  
18   graph (1), and as further described in this Act, the De-  
19   partment's primary responsibilities shall include—

20           (A) information analysis and infrastructure pro-  
21   tection;

22           (B) chemical, biological, radiological, nuclear,  
23   and related countermeasures; ; *and*

24           (C) border and transportation security;

25           ~~(D) emergency preparedness and response; and~~



1           ~~(E) coordination (including the provision of~~  
2           ~~training and equipment) with other executive agen-~~  
3           ~~cies, with State and local government personnel,~~  
4           ~~agencies, and authorities, with the private sector,~~  
5           ~~and with other entities.~~

6           (3) The Department shall also be responsible for car-  
7           rying out other functions of entities transferred to the De-  
8           partment as provided by law.

9   **SEC. 102. SECRETARY; FUNCTIONS.**

10          (a) SECRETARY.—(1) There is a Secretary of Home-  
11          land Security, appointed by the President, by and with the  
12          advice and consent of the Senate.

13          (2) The Secretary is the head of the Department and  
14          shall have direction, authority, and control over it.

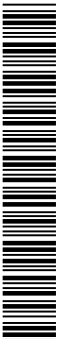
15          (3) All functions of all officers, employees, and orga-  
16          nizational units of the Department are vested in the Sec-  
17          retary.

18          (b) FUNCTIONS.—The Secretary—

19                 (1) may delegate any of his functions to any of-  
20                 ficer, employee, or organizational unit of the Depart-  
21                 ment;

22                 (2) may promulgate regulations hereunder; and

23                 (3) shall have such functions, including the au-  
24                 thority to make contracts, grants, and cooperative  
25                 agreements, and to enter into agreements with other





1 executive agencies, as may be necessary and proper  
2 to carry out his responsibilities under this Act or  
3 otherwise provided by law.

4 *(c) ISSUANCE OF REGULATIONS.—The issuance of reg-*  
5 *ulations by the Secretary shall be governed by the provisions*  
6 *of chapter 5 of title 5, United States Code, except as specifi-*  
7 *cally provided in this Act, in laws granting regulatory au-*  
8 *thorities that are transferred by this Act, and in laws en-*  
9 *acted after the date of enactment of this Act.*

10 **SEC. 103. OTHER OFFICERS.**

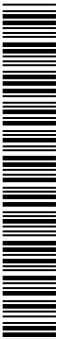
11 (a) DEPUTY SECRETARY; UNDER SECRETARIES.—  
12 To assist the Secretary in the performance of his func-  
13 tions, there are the following officers, appointed by the  
14 President, by and with the advice and consent of the Sen-  
15 ate:

16 (1) A Deputy Secretary of Homeland Security,  
17 who shall be the Secretary's first assistant for pur-  
18 poses of chapter 33, subchapter 3, of title 5, United  
19 States Code.

20 (2) An Under Secretary for Information Anal-  
21 ysis and Infrastructure Protection.

22 (3) An Under Secretary for Chemical, Biologi-  
23 cal, Radiological, and Nuclear Countermeasures.

24 (4) An Under Secretary for Border and Trans-  
25 portation Security.



1 (5) An Under Secretary for Emergency Pre-  
2 paredness and Response.

3 (6) An Under Secretary for Management.

4 (7) Not more than six Assistant Secretaries.

5 (b) INSPECTOR GENERAL.—To assist the Secretary  
6 in the performance of his functions, there is an Inspector  
7 General, who shall be appointed as provided in section  
8 3(a) of the Inspector General Act of 1978.

9 ~~(c) COMMANDANT OF THE COAST GUARD.—To assist~~  
10 ~~the Secretary in the performance of his functions, there~~  
11 ~~is a Commandant of the Coast Guard, who shall be ap-~~  
12 ~~pointed as provided in section 44 of title 14, United States~~  
13 ~~Code.~~

14 ~~(d)~~ (c) OTHER OFFICERS.—To assist the Secretary  
15 in the performance of his functions, there are the following  
16 officers, appointed by the President:

17 (1) A General Counsel, who shall be the chief  
18 legal officer of the Department.

19 (2) Not more than ten Assistant Secretaries.

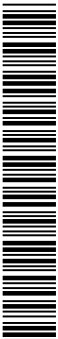
20 (3) A Director of the Secret Service.

21 (4) A Chief Financial Officer.

22 (5) A Chief Information Officer.

23 ~~(e)~~ (d) PERFORMANCE OF SPECIFIC FUNCTIONS.—

24 Subject to the provisions of this Act, every officer of the



1 department shall perform the functions specified by law  
2 for his office or prescribed by the Secretary.

3 **TITLE II—INFORMATION ANAL-**  
4 **YSIS AND INFRASTRUCTURE**  
5 **PROTECTION**

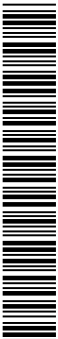
6 **SEC. 201. UNDER SECRETARY FOR INFORMATION ANALYSIS**  
7 **AND INFRASTRUCTURE PROTECTION.**

8 In assisting the Secretary with the responsibilities  
9 specified in section 101(b)(2)(A), the primary responsibil-  
10 ities of the Under Secretary for Information Analysis and  
11 Infrastructure Protection shall include—

12 (1) receiving and analyzing law enforcement in-  
13 formation, intelligence, and other information in  
14 order to understand the nature and scope of the ter-  
15 rorist threat to the American homeland and to de-  
16 tect and identify potential threats of terrorism with-  
17 in the United States;

18 (2) comprehensively assessing the vulnerabilities  
19 of the key resources and critical infrastructures in  
20 the United States;

21 (3) integrating relevant information, intelligence  
22 analyses, and vulnerability assessments (whether  
23 such information, analyses, or assessments are pro-  
24 vided or produced by the Department or others) to  
25 identify protective priorities and support protective



1 measures by the Department, by other executive  
2 agencies, by State and local government personnel,  
3 agencies, and authorities, by the private sector, and  
4 by other entities;

5 (4) developing a comprehensive national plan  
6 for securing the key resources and critical infra-  
7 structures in the United States;

8 (5) taking or seeking to effect necessary meas-  
9 ures to protect the key resources and critical infra-  
10 structures in the United States, in coordination with  
11 other executive agencies and in cooperation with  
12 State and local government personnel, agencies, and  
13 authorities, the private sector, and other entities;

14 (6) administering the Homeland Security Advi-  
15 sory System, exercising primary responsibility for  
16 public threat advisories, and (in coordination with  
17 other executive agencies) providing specific warning  
18 information to State and local government per-  
19 sonnel, agencies, and authorities, the private sector,  
20 other entities, and the public, as well as advice about  
21 appropriate protective actions and countermeasures;  
22 and

23 (7) reviewing, analyzing, and making rec-  
24 ommendations for improvements in the policies and  
25 procedures governing the sharing of law enforce-



1       ment, intelligence, and other information relating to  
2       homeland security within the Federal Government  
3       and between such government and State and local  
4       government personnel, agencies, and authorities.

5   **SEC. 202. FUNCTIONS TRANSFERRED.**

6       In accordance with title VIII, there shall be trans-  
7       ferred to the Secretary the functions, personnel, assets,  
8       and liabilities of the following entities—

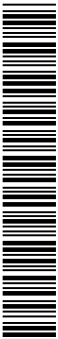
9           (1) the National Infrastructure Protection Cen-  
10       ter of the Federal Bureau of Investigation (other  
11       than the Computer Investigations and Operations  
12       Section), including the functions of the Attorney  
13       General relating thereto;

14          (2) the National Communications System of the  
15       Department of Defense, including the functions of  
16       the Secretary of Defense relating thereto;

17          (3) the Critical Infrastructure Assurance Office  
18       of the Department of Commerce, including the func-  
19       tions of the Secretary of Commerce relating thereto;

20          (4) the Computer Security Division of the Na-  
21       tional Institute of Standards and Technology, in-  
22       cluding the functions of the Secretary of Commerce  
23       relating thereto;

24          (5) the National Infrastructure Simulation and  
25       Analysis Center of the Department of Energy, in-



1 including the functions of the Secretary of Energy re-  
2 lating thereto; and

3 (6) the Federal Computer Incident Response  
4 Center of the General Services Administration, in-  
5 cluding the functions of the Administrator of Gen-  
6 eral Services relating thereto.

7 **SEC. 203. ACCESS TO INFORMATION.**

8 The Secretary shall have access to all reports, assess-  
9 ments, and analytical information relating to threats of  
10 terrorism in the United States and to other areas of re-  
11 sponsibility described in section 101(b), and to all infor-  
12 mation concerning infrastructure or other vulnerabilities  
13 of the United States to terrorism, whether or not such  
14 information has been analyzed, that may be collected, pos-  
15 sessed, or prepared by any executive agency, except as oth-  
16 erwise directed by the President. The Secretary shall also  
17 have access to other information relating to the foregoing  
18 matters that may be collected, possessed, or prepared by  
19 an executive agency, as the President may further provide.  
20 With respect to the material to which the Secretary has  
21 access under this section—

22 (1) the Secretary may obtain such material by  
23 request, and may enter into cooperative arrange-  
24 ments with other executive agencies to share such  
25 material on a regular or routine basis, including re-



1       quests or arrangements involving broad categories of  
2       material;

3           (2) regardless of whether the Secretary has  
4       made any request or entered into any cooperative ar-  
5       rangement pursuant to paragraph (1), all executive  
6       agencies promptly shall provide to the Secretary—

7           (A) all reports, assessments, and analytical  
8       information relating to threats of terrorism in  
9       the United States and to other areas of respon-  
10      sibility described in section 101(b);

11          (B) all information concerning infrastruc-  
12      ture or other vulnerabilities of the United  
13      States to terrorism, whether or not such infor-  
14      mation has been analyzed;

15          (C) all information relating to significant  
16      and credible threats of terrorism in the United  
17      States, whether or not such information has  
18      been analyzed, if the President has provided  
19      that the Secretary shall have access to such in-  
20      formation; and

21          (D) such other material as the President  
22      may further provide; and

23          (3) the Secretary shall ensure that any material  
24      received pursuant to this section is protected from  
25      unauthorized disclosure and handled and used only



1 for the performance of official duties, and that any  
2 intelligence information shared under this section  
3 shall be transmitted, retained, and disseminated con-  
4 sistent with the authority of the Director of Central  
5 Intelligence to protect intelligence sources and meth-  
6 ods under the National Security Act and related pro-  
7 cedures or, as appropriate, similar authorities of the  
8 Attorney General concerning sensitive law enforce-  
9 ment information.

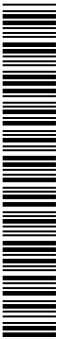
10 **SEC. 204. INFORMATION VOLUNTARILY PROVIDED.**

11 Information provided voluntarily by non-Federal enti-  
12 ties or individuals that relates to infrastructure  
13 vulnerabilities or other vulnerabilities to terrorism and is  
14 or has been in the possession of the Department shall not  
15 be subject to section 552 of title 5, United States Code.

16 **TITLE III—CHEMICAL, BIOLOGI-**  
17 **CAL, RADIOLOGICAL, AND NU-**  
18 **CLEAR COUNTERMEASURES**

19 **SEC. 301. UNDER SECRETARY FOR CHEMICAL, BIOLOGICAL,**  
20 **RADIOLOGICAL, AND NUCLEAR COUNTER-**  
21 **MEASURES.**

22 In assisting the Secretary with the responsibilities  
23 specified in section 101(b)(2)(B), the primary responsibil-  
24 ities of the Under Secretary for Chemical, Biological, Ra-  
25 diological, and Nuclear Countermeasures shall include—





1           (1) securing the people, infrastructures, prop-  
2           erty, resources, and systems in the United States  
3           from acts of terrorism involving chemical, biological,  
4           radiological, or nuclear weapons or other emerging  
5           threats;

6           (2) conducting a national scientific research  
7           and development program to support the mission of  
8           the Department, including developing national policy  
9           for and coordinating the Federal Government's civil-  
10          ian efforts to identify, devise, and implement sci-  
11          entific, technological, and other countermeasures to  
12          chemical, biological, radiological, nuclear, and other  
13          emerging terrorist threats, including directing, fund-  
14          ing, and conducting research and development relat-  
15          ing to the same;

16          (3) establishing priorities for, directing, fund-  
17          ing, and conducting national research, development,  
18          and procurement of technology and systems—

19                (A) for preventing the importation of  
20                chemical, biological, radiological, nuclear, and  
21                related weapons and material; and

22                (B) for detecting, preventing, protecting  
23                against, and responding to terrorist attacks  
24                that involve such weapons or material; and



1 (4) establishing guidelines for State and local  
2 government efforts to develop and implement coun-  
3 termeasures to threats of chemical, biological, radio-  
4 logical, and nuclear terrorism, and other emerging  
5 terrorist threats.

6 **SEC. 302. FUNCTIONS TRANSFERRED.**

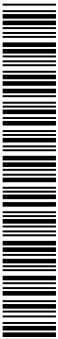
7 In accordance with title VIII, there shall be trans-  
8 ferred to the Secretary the functions, personnel, assets,  
9 and liabilities of the following entities—

10 (1) the select agent registration enforcement  
11 programs and activities of the Department of Health  
12 and Human Services, including the functions of the  
13 Secretary of Health and Human Services relating  
14 thereto;

15 (2) the following programs and activities of the  
16 Department of Energy, including the functions of  
17 the Secretary of Energy relating thereto (but not in-  
18 cluding programs and activities relating to the stra-  
19 tegic nuclear defense posture of the United States):

20 (A) the chemical and biological national se-  
21 curity and supporting programs and activities  
22 of the non-proliferation and verification re-  
23 search and development program;

24 (B) the nuclear smuggling programs and  
25 activities, and other programs and activities di-



1 rectly related to homeland security, within the  
2 proliferation detection program of the non-pro-  
3 liferation and verification research and develop-  
4 ment program, except that the programs and  
5 activities described in this subparagraph may be  
6 designated by the President either for transfer  
7 to the Department or for joint operation by the  
8 Secretary and the Secretary of Energy;

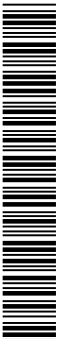
9 (C) the nuclear assessment program and  
10 activities of the assessment, detection, and co-  
11 operation program of the international mate-  
12 rials protection and cooperation program;

13 (D) the energy security and assurance pro-  
14 gram and activities;

15 (E) such life sciences activities of the bio-  
16 logical and environmental research program re-  
17 lated to microbial pathogens as may be des-  
18 ignated by the President for transfer to the De-  
19 partment;

20 (F) the Environmental Measurements Lab-  
21 oratory; and

22 (G) the advanced scientific computing re-  
23 search program and activities, and the intel-  
24 ligence program and activities, at Lawrence  
25 Livermore National Laboratory;



1 (3) the National Bio-Weapons Defense Analysis  
2 Center of the Department of Defense, including the  
3 functions of the Secretary of Defense related there-  
4 to; and

5 (4) the Plum Island Animal Disease Center of  
6 the Department of Agriculture, including the func-  
7 tions of the Secretary of Agriculture relating there-  
8 to.

9 **SEC. 303. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED**  
10 **ACTIVITIES.**

11 (a) CERTAIN ACTIVITIES CARRIED OUT THROUGH  
12 HHS.—(1) Except as the President may otherwise direct,  
13 the Secretary shall carry out his civilian human health-  
14 related biological, biomedical, and infectious disease de-  
15 fense research and development (including vaccine re-  
16 search and development) responsibilities through the De-  
17 partment of Health and Human Services (including the  
18 Public Health Service), under agreements with the Sec-  
19 retary of Health and Human Services, and may transfer  
20 funds to him in connection with such agreements.

21 (2) With respect to any responsibilities carried out  
22 through the Department of Health and Human Services  
23 under this subsection, the Secretary, in consultation with  
24 the Secretary of Health and Human Services, shall have



1 the authority to establish the research and development  
2 program, including the setting of priorities.

3 (b) TRANSFER OF FUNDS.—With respect to such  
4 other research and development responsibilities under this  
5 title, including health-related chemical, radiological, and  
6 nuclear defense research and development responsibilities,  
7 as he may elect to carry out through the Department of  
8 Health and Human Services (including the Public Health  
9 Service) (under agreements with the Secretary of Health  
10 and Human Services) or through other Federal agencies  
11 (under agreements with their respective heads), the Sec-  
12 retary may transfer funds to the Secretary of Health and  
13 Human Services, or to such heads, as the case may be.

14 **SEC. 304. MILITARY ACTIVITIES.**

15 Except as specifically provided in this Act, nothing  
16 in this Act shall confer upon the Secretary any authority  
17 to engage in warfighting, the military defense of the  
18 United States, or other traditional military activities.

19 **TITLE IV—BORDER AND**  
20 **TRANSPORTATION SECURITY**

21 **SEC. 401. UNDER SECRETARY FOR BORDER AND TRANS-**  
22 **PORTATION SECURITY.**

23 In assisting the Secretary with the responsibilities  
24 specified in section 101(b)(2)(C), the primary responsibil-



ities of the Under Secretary for Border and Transportation Security shall include—

(1) preventing the entry of terrorists and the instruments of terrorism into the United States;

(2) securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating governmental activities at ports of entry;

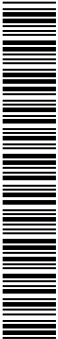
(3) administering the immigration and naturalization laws of the United States, including the establishment of rules, in accordance with section 403, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not citizens or lawful permanent residents thereof;

(4) administering the customs laws of the United States; and

(5) in carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce.

**SEC. 402. FUNCTIONS TRANSFERRED.**

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities—



1 (1) the United States Customs Service of the  
2 Department of the Treasury, including the functions  
3 of the Secretary of the Treasury relating thereto;

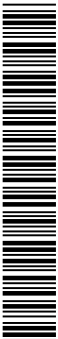
4 (2) the Immigration and Naturalization Service  
5 of the Department of Justice, including the func-  
6 tions of the Attorney General relating thereto;

7 (3) the Animal and Plant Health Inspection  
8 Service of the Department of Agriculture, including  
9 the functions of the Secretary of Agriculture relating  
10 thereto;

11 ~~(4) the Coast Guard of the Department of~~  
12 ~~Transportation, which shall be maintained as a dis-~~  
13 ~~tinct entity within the Department, including the~~  
14 ~~functions of the Secretary of Transportation relating~~  
15 ~~thereto;~~

16 ~~(5)~~ (4) *subject to section 404*, the Transportation  
17 Security Administration of the Department of  
18 Transportation, including the functions of the Sec-  
19 retary of Transportation, and of the Under Sec-  
20 retary of Transportation for Security, relating there-  
21 to; and

22 ~~(6)~~ (5) *subject to section 405*, the Federal Pro-  
23 tective Service of the General Services Administra-  
24 tion, including the functions of the Administrator of  
25 General Services relating thereto.



1   **SEC. 403. VISA ISSUANCE.**

2           (a) **AUTHORITY.**—Notwithstanding the provisions of  
3 section 104 of the Immigration and Nationality Act (8  
4 U.S.C. 1104) or any other law, and except as provided  
5 in subsection (b) of this section, the Secretary shall have—

6           (1) exclusive authority, through the Secretary  
7 of State, to issue regulations with respect to, admin-  
8 ister, and enforce the provisions of that Act and all  
9 other immigration and nationality laws relating to  
10 the functions of diplomatic and consular officers of  
11 the United States in connection with the granting or  
12 refusal of visas; and

13           (2) authority to confer or impose upon any offi-  
14 cer or employee of the United States, with the con-  
15 sent of the executive agency under whose jurisdiction  
16 such officer or employee is serving, any of the func-  
17 tions specified in paragraph (1).

18           (b) **REFUSAL OF VISAS.**—The Secretary of State may  
19 refuse a visa to an alien if the Secretary of State deems  
20 such refusal necessary or advisable in the interests of the  
21 United States.

22   **SEC. 404. FUNCTIONS OF TRANSPORTATION SECURITY AD-**  
23                           **MINISTRATION.**

24           (a) *IN GENERAL.*—*The functions of the Transpor-*  
25 *tation Security Administration of the Department of*  
26 *Transportation transferred under section 402(5) shall be*



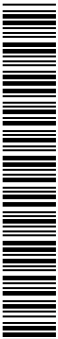
1 *carried out by an Assistant Secretary of the Department*  
2 *appointed by the President under section 103(a)(7). The As-*  
3 *stant Secretary shall be known as the Assistant Secretary*  
4 *for Transportation Security (in this section referred to as*  
5 *the “Assistant Secretary”).*

6 (b) *REPORTING.—The Assistant Secretary shall report*  
7 *to the Under Secretary for Border and Transportation Se-*  
8 *curity.*

9 (c) *CONSULTATION WITH FEDERAL AVIATION ADMIN-*  
10 *ISTRATION.—The Secretary and other officials in the De-*  
11 *partment shall consult with the Administrator of the Fed-*  
12 *eral Aviation Administration before taking any action that*  
13 *might affect aviation safety, air carrier operations, aircraft*  
14 *airworthiness, or the use of airspace. The Secretary shall*  
15 *establish a liaison office within the Department for the pur-*  
16 *pose of consulting with the Administrator of the Federal*  
17 *Aviation Administration.*

18 (d) *DATE OF TRANSFER OF FUNCTIONS.—Notwith-*  
19 *standing section 802 or any other provision of this Act, the*  
20 *transfer relating to the Transportation Security Adminis-*  
21 *tration under section 402(5) shall not occur until after—*

22 (1) *the Secretary, Assistant Secretary, and the*  
23 *Under Secretary for Border and Transportation Se-*  
24 *curity have each taken office;*



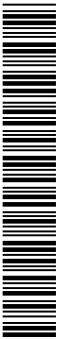
1           (2) *the Secretary of Transportation certifies that*  
2           *explosive detection systems are deployed at all United*  
3           *States airports described in section 44903(c) of title*  
4           *49, United States Code, and that these systems are*  
5           *screening all checked baggage; and*

6           (3) *the Secretary of Transportation certifies that*  
7           *a sufficient number of Federal screeners, Federal Se-*  
8           *curity Managers, Federal security personnel, and*  
9           *Federal law enforcement officers have been deployed*  
10          *at all airports in the United States at which screen-*  
11          *ing is required under section 44901 of title 49, United*  
12          *States Code, other than airports participating in the*  
13          *pilot program under section 44919 of such title.*

14          (e) *TSA AND OTHER SECURITY-RELATED PRO-*  
15          *GRAMS.—*

16               (1) *TSA PROGRAMS.—For purposes of the trans-*  
17               *fer under section 402(5), the Transportation Security*  
18               *Administration shall be considered to consist of those*  
19               *programs for which funds are specifically requested*  
20               *for the Transportation Security Administration in*  
21               *the President's budget submission to Congress for fis-*  
22               *cal year 2003.*

23               (2) *OTHER SECURITY-RELATED PROGRAMS.—*  
24               *Other security-related programs within the Depart-*  
25               *ment of Transportation may not be transferred to the*

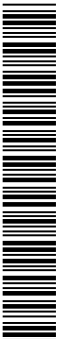


1       *Department of Homeland Security before the last day*  
2       *of a 30-day period of continuous session of Congress*  
3       *following the date of transmittal by the President to*  
4       *Congress of a notice of the President's intent to make*  
5       *such a transfer. For purposes of the preceding sen-*  
6       *tence, continuity of a session of Congress is broken*  
7       *only by an adjournment sine die, and there shall be*  
8       *excluded from the computation of such 30-day period*  
9       *any day during which either House of Congress is not*  
10       *in session during an adjournment of more than 3*  
11       *days to a day certain.*

12       *(f) REPORT TO CONGRESS.—Not later than 60 days*  
13       *after the date of enactment of this Act, the Secretary of*  
14       *Transportation shall transmit to Congress a report con-*  
15       *taining a plan for complying with the requirements of sec-*  
16       *tion 44901(d) of title 49, United States Code.*

17       *(g) LIMITATIONS ON STATUTORY CONSTRUCTION.—*

18               *(1) GRANT OF AUTHORITY.—Nothing in this Act*  
19       *may be construed to vest in the Secretary or any*  
20       *other official in the Department any authority over*  
21       *transportation security that is not vested in the*  
22       *Under Secretary of Transportation for Security, or in*  
23       *the Secretary of Transportation under chapter 449 of*  
24       *title 49, United States Code, on the day before the*  
25       *date of enactment of this Act.*

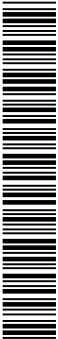


1           (2) *OBLIGATION OF AIP FUNDS.*—*Nothing in this*  
2       *Act may be construed to authorize the Secretary or*  
3       *any other official in the Department to obligate*  
4       *amounts made available under section 48103 of title*  
5       *49, United States Code.*

6       (h) *REFERENCES.*—*References relating to the Under*  
7       *Secretary of Transportation for Security and the Transpor-*  
8       *tation Security Administration of the Department of*  
9       *Transportation in statutes, Executive orders, rules, regula-*  
10      *tions, directives, or delegations of authority that precede the*  
11      *effective date of the transfer under section 402(5) shall be*  
12      *deemed to refer, as appropriate, to the Assistant Secretary*  
13      *and the Department, respectively.*

14   **SEC. 405. FUNCTIONS OF ADMINISTRATOR OF GENERAL**  
15                   **SERVICES.**

16       (a) *OPERATION, MAINTENANCE, AND PROTECTION OF*  
17      *FEDERAL BUILDINGS AND GROUNDS.*—*Nothing in this Act*  
18      *may be construed to affect the functions or authorities of*  
19      *the Administrator of General Services with respect to the*  
20      *operation, maintenance, and protection of buildings and*  
21      *grounds owned or occupied by the Federal Government and*  
22      *under the jurisdiction, custody, or control of the Adminis-*  
23      *trator. Except for the law enforcement and related security*  
24      *functions transferred under section 402(6), the Adminis-*  
25      *trator shall retain all powers, functions, and authorities*



1 *vested in the Administrator under the Federal Property and*  
2 *Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)*  
3 *and other provisions of law that are necessary for the oper-*  
4 *ation, maintenance, and protection of such buildings and*  
5 *grounds.*

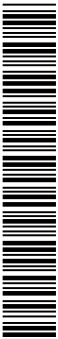
6 (b) *COLLECTION OF RENTS AND FEES; FEDERAL*  
7 *BUILDINGS FUND.—*

8 (1) *STATUTORY CONSTRUCTION.—Nothing in this*  
9 *Act may be construed—*

10 (A) *to direct the transfer of, or affect, the*  
11 *authority of the Administrator of General Serv-*  
12 *ices to collect, rents and fees, including fees col-*  
13 *lected for protective services; or*

14 (B) *to authorize the Secretary or any other*  
15 *official in the Department to obligate amounts*  
16 *in the Federal Buildings Fund established by*  
17 *section 210(f) of the Federal Property and Ad-*  
18 *ministrative Services Act of 1949 (40 U.S.C.*  
19 *490(f)).*

20 (2) *USE OF TRANSFERRED AMOUNTS.—Any*  
21 *amounts transferred by the Administrator of General*  
22 *Services to the Secretary out of rents and fees col-*  
23 *lected by the Administrator shall be used by the Sec-*  
24 *retary solely for the protection of buildings or grounds*  
25 *owned or occupied by the Federal Government.*



1 **SEC. 406. RETENTION OF COAST GUARD FUNCTIONS.**

2 (a) *LIMITATION ON FUNCTIONS OF UNDER SEC-*  
3 *RETARY.—Notwithstanding any other provision of this title,*  
4 *the functions of the Under Secretary for Border and Trans-*  
5 *portation Security do not include any function that imme-*  
6 *diately before this Act takes effect is a function of the Coast*  
7 *Guard.*

8 (b) *PRESERVATION OF COAST GUARD FUNCTIONS.—*  
9 *The functions of the Coast Guard (and of the Secretary of*  
10 *the Department in which the Coast Guard is operating with*  
11 *respect to such functions) are not affected by this title.*

12 **SEC. 407. INTERAGENCY SECURITY COMMITTEE.**

13 (a) *PURPOSE.—It is the purposes of this section to en-*  
14 *hance the quality and effectiveness of security in and pro-*  
15 *tection of buildings and facilities in the United States occu-*  
16 *pied by Federal employees for nonmilitary activities (in*  
17 *this section referred to as “Federal facilities”) and to pro-*  
18 *vide a permanent body to address continuing Government-*  
19 *wide security for Federal facilities.*

20 (b) *ESTABLISHMENT.—There is established within the*  
21 *executive branch the Interagency Security Committee (in*  
22 *this section referred to as the “Committee”). The Committee*  
23 *shall consist of the following members:*

24 (1) *The Administrator of General Services.*

25 (2) *Representatives from the following agencies,*  
26 *appointed by the agency heads:*

1                   (A) *Department of State.*

2                   (B) *Department of the Treasury.*

3                   (C) *Department of Defense.*

4                   (D) *Department of Justice.*

5                   (E) *Department of Homeland Security.*

6                   (F) *Department of the Interior.*

7                   (G) *Department of Agriculture.*

8                   (H) *Department of Commerce.*

9                   (I) *Department of Labor.*

10                  (J) *Department of Health and Human*  
11 *Services.*

12                  (K) *Department of Housing and Urban De-*  
13 *velopment.*

14                  (L) *Department of Transportation.*

15                  (M) *Department of Energy.*

16                  (N) *Department of Education.*

17                  (O) *Department of Veterans Affairs.*

18                  (P) *Environmental Protection Agency.*

19                  (Q) *Central Intelligence Agency.*

20                  (R) *Office of Management and Budget.*

21                  (3) *The following individuals or their designees:*

22                   (A) *The Director, United States Marshals*  
23 *Service.*

24                   (B) *The head of the Federal Protective Serv-*  
25 *ice.*



1                   (C) *The Assistant to the President for Na-*  
2                   *tional Security Affairs.*

3                   (D) *The Director, Security Policy Board.*

4                   (4) *Such other Federal employees as the Presi-*  
5                   *dent shall appoint.*

6           (c) *CHAIR.—The Committee shall be chaired or co-*  
7           *chaired by the Administrator of General Services, or the*  
8           *designee of the Administrator.*

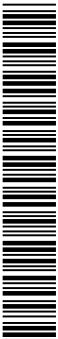
9           (d) *WORKING GROUPS.—The Committee is authorized*  
10           *to establish interagency working groups to perform such*  
11           *tasks as may be directed by the Committee.*

12           (e) *CONSULTATION.—The Committee may consult with*  
13           *other parties, including the Administrative Office of the*  
14           *United States Courts, to perform its responsibilities under*  
15           *this section and, at the discretion of the Committee, such*  
16           *other parties may participate in the working groups.*

17           (f) *DUTIES AND RESPONSIBILITIES.—The Committee*  
18           *shall—*

19                   (1) *establish policies for security in and protec-*  
20                   *tion of Federal facilities;*

21                   (2) *develop and evaluate security standards for*  
22                   *Federal facilities, develop a strategy for ensuring*  
23                   *compliance with such standards, and oversee the im-*  
24                   *plementation of appropriate security measures in*  
25                   *Federal facilities; and*





1           (3) take such actions as may be necessary to en-  
2           hance the quality and effectiveness of security and  
3           protection of Federal facilities, including—

4                   (A) encouraging agencies with security re-  
5                   sponsibilities to share security-related intel-  
6                   ligence in a timely and cooperative manner;

7                   (B) assessing technology and information  
8                   systems as a means of providing cost-effective  
9                   improvements to security in Federal facilities;

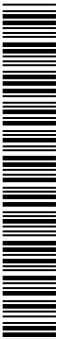
10                  (C) developing long-term construction  
11                  standards for those locations with threat levels or  
12                  missions that require blast resistant structures or  
13                  other specialized security requirements;

14                  (D) evaluating standards for the location of,  
15                  and special security related to, day care centers  
16                  in Federal facilities; and

17                  (E) assisting the Administrator of General  
18                  Services in developing and maintaining a cen-  
19                  tralized security data base of all Federal facili-  
20                  ties.

21           (g) AGENCY SUPPORT AND COOPERATION.—

22                   (1) ADMINISTRATIVE SUPPORT.—To the extent  
23                   permitted by law and subject to the availability of  
24                   appropriations, the Administrator of General Services  
25                   shall provide the Committee such administrative serv-





1                   **TITLE V—EMERGENCY**  
2                   **PREPAREDNESS AND RESPONSE**  
3                   **SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPARED-**  
4                   **NESS AND RESPONSE.**

5                   In assisting the Secretary with the responsibilities  
6 specified in section 101(b)(2)(D), the primary responsibil-  
7 ities of the Under Secretary for Emergency Preparedness  
8 and Response shall include—

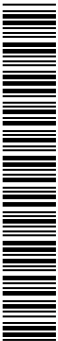
9                   (1) helping to ensure the preparedness of emer-  
10                  gency response providers for terrorist attacks, ~~major~~  
11                  ~~disasters, and other emergencies;~~

12                  (2) with respect to the Nuclear Incident Re-  
13                  sponse Team (regardless of whether it is operating  
14                  as an organizational unit of the Department pursu-  
15                  ant to this title)—

16                         (A) establishing standards and certifying  
17                         when those standards have been met;

18                         (B) conducting joint and other exercises  
19                         and training and evaluating performance; and

20                         (C) providing funds to the Department of  
21                         Energy and the Environmental Protection  
22                         Agency, as appropriate, for homeland security  
23                         planning, exercises and training, and equip-  
24                         ment;



1           (3) providing the Federal Government's re-  
2       response to terrorist attacks ~~and major disasters~~,  
3       including—

4           (A) managing such response;

5           (B) directing the Domestic Emergency  
6       Support Team, the Strategic National Stock-  
7       pile, the National Disaster Medical System, and  
8       (when operating as an organizational unit of  
9       the Department pursuant to this title) the Nu-  
10      clear Incident Response Team;

11          (C) overseeing the Metropolitan Medical  
12      Response System; and

13          (D) coordinating other Federal response  
14      resources in the event of a terrorist attack ~~or~~  
15      ~~major disaster~~;

16          (4) aiding the recovery from terrorist attacks  
17      ~~and major disasters~~;

18          (5) building a comprehensive national incident  
19      management system with Federal, State, and local  
20      government personnel, agencies, and authorities, to  
21      respond to such attacks and disasters;

22          ~~(6) consolidating existing Federal Government~~  
23      ~~emergency response plans into a single, coordinated~~  
24      ~~national response plan; and~~



1           (6) *in consultation with the Director of the Fed-*  
2           *eral Emergency Management Agency, consolidating*  
3           *existing Federal Government emergency response*  
4           *plans for terrorist attacks into the Federal Response*  
5           *Plan referred to in section 506(b); and*

6           (7) developing comprehensive programs for de-  
7           veloping interoperative communications technology,  
8           and helping to ensure that emergency response pro-  
9           viders acquire such technology.

10 **SEC. 502. FUNCTIONS TRANSFERRED.**

11       In accordance with title VIII, there shall be trans-  
12       ferred to the Secretary the functions, personnel, assets,  
13       and liabilities of the following entities—

14           ~~(1) the Federal Emergency Management Agen-~~  
15           ~~cy, including the functions of the Director of the~~  
16           ~~Federal Emergency Management Agency relating~~  
17           ~~thereto;~~

18           ~~(2)~~ (1) the Office for Domestic Preparedness of  
19           the Office of Justice Programs, including the func-  
20           tions of the Attorney General relating thereto;

21           ~~(3)~~ (2) the National Domestic Preparedness Of-  
22           fice of the Federal Bureau of Investigation, includ-  
23           ing the functions of the Attorney General relating  
24           thereto;



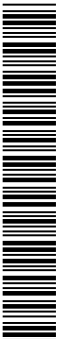
1           ~~(4)~~ (3) the Domestic Emergency Support  
2       Teams of the Department of Justice, including the  
3       functions of the Attorney General relating thereto;

4           ~~(5)~~ (4) the Office of the Assistant Secretary for  
5       Public Health Emergency Preparedness (including  
6       the Office of Emergency Preparedness, the National  
7       Disaster Medical System, and the Metropolitan Med-  
8       ical Response System) of the Department of Health  
9       and Human Services, including the functions of the  
10      Secretary of Health and Human Services relating  
11      thereto; and

12           ~~(6)~~ (5) the Strategic National Stockpile of the  
13      Department of Health and Human Services, includ-  
14      ing the functions of the Secretary of Health and  
15      Human Services relating thereto.

16   **SEC. 503. NUCLEAR INCIDENT RESPONSE.**

17      (a) NUCLEAR INCIDENT RESPONSE TEAM.—At the  
18      direction of the Secretary (in connection with an actual  
19      or threatened terrorist attack, major disaster, or other  
20      emergency), the Nuclear Incident Response Team shall  
21      operate as an organizational unit of the Department.  
22      While so operating, the Nuclear Incident Response Team  
23      shall be subject to the direction, authority, and control of  
24      the Secretary.



1 (b) CONSTRUCTION.—Nothing in this title shall be  
2 understood to limit the ordinary responsibility of the Sec-  
3 retary of Energy and the Administrator of the Environ-  
4 mental Protection Agency for organizing, training, equip-  
5 ping, and utilizing their respective entities in the Nuclear  
6 Incident Response Team, or (subject to the provisions of  
7 this title) from exercising direction, authority, and control  
8 over them when they are not operating as a unit of the  
9 Department.

10 **SEC. 504. DEFINITION.**

11 For purposes of this title, “nuclear incident response  
12 team” means a resource that includes—

13 (1) those entities of the Department of Energy  
14 that perform nuclear or radiological emergency sup-  
15 port functions (including accident response, search  
16 response, advisory, and technical operations func-  
17 tions), radiation exposure functions at the medical  
18 assistance facility known as Oak Ridge National  
19 Laboratory, radiological assistance functions, and re-  
20 lated functions; and

21 (2) those entities of the Environmental Protec-  
22 tion Agency that perform such support functions (in-  
23 cluding radiological emergency response functions)  
24 and related functions.



1 **SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED**  
2 **ACTIVITIES.**

3 (a) IN GENERAL.—Except as the President may oth-  
4 erwise direct, the Secretary shall carry out the following  
5 responsibilities through the Department of Health and  
6 Human Services (including the Public Health Service),  
7 under agreements with the Secretary of Health and  
8 Human Services, and may transfer funds to him in con-  
9 nection with such agreements:

10 (1) All biological, chemical, radiological, and  
11 nuclear preparedness-related construction, renova-  
12 tion, and enhancement of security for research and  
13 development or other facilities owned or occupied by  
14 the Department of Health and Human Services.

15 (2) All public health-related activities being car-  
16 ried out by the Department of Health and Human  
17 Services on the effective date of this Act (other than  
18 activities under functions transferred by this Act to  
19 the Department) to assist State and local govern-  
20 ment personnel, agencies, or authorities, non-Federal  
21 public and private health care facilities and pro-  
22 viders, and public and non-profit health and edu-  
23 cational facilities, to plan, prepare for, prevent, iden-  
24 tify, and respond to biological, chemical, radiological,  
25 and nuclear events and public health emergencies, by  
26 means including direct services, technical assistance,



1       communications and surveillance, education and  
2       training activities, and grants.

3       (b) PREPAREDNESS AND RESPONSE PROGRAM.—

4       With respect to any responsibilities carried out through  
5       the Department of Health and Human Services under this  
6       section, the Secretary, in consultation with the Secretary  
7       of Health and Human Services, shall have the authority  
8       to establish the preparedness and response program, in-  
9       cluding the setting of priorities.

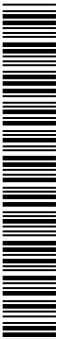
10   **SEC. 506. ROLE OF FEDERAL EMERGENCY MANAGEMENT**  
11                           **AGENCY.**

12       (a) *IN GENERAL.*—*The functions of the Federal Emer-*  
13       *gency Management Agency include, but are not limited to,*  
14       *the following:*

15                   (1) *All functions and authorities prescribed by*  
16       *the Robert T. Stafford Disaster Relief and Emergency*  
17       *Assistance Act (42 U.S.C. 5121 et seq.).*

18                   (2) *Carrying out its mission to reduce the loss*  
19       *of life and property and protect the Nation from all*  
20       *hazards by leading and supporting the Nation in a*  
21       *comprehensive, risk-based emergency management*  
22       *program—*

23                           (A) *of mitigation, by taking sustained ac-*  
24       *tions to reduce or eliminate long-term risk to*



1        *people and property from hazards and their ef-*  
2        *fects;*

3                *(B) of preparedness, by building the emer-*  
4        *gency management profession to prepare effec-*  
5        *tively for, mitigate against, respond to, and re-*  
6        *cover from any hazard by planning, training,*  
7        *and exercising;*

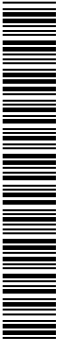
8                *(C) of response, by conducting emergency*  
9        *operations to save lives and property through po-*  
10       *sitioning emergency equipment and supplies,*  
11       *through evacuating potential victims, through*  
12       *providing food, water, shelter, and medical care*  
13       *to those in need, and through restoring critical*  
14       *public services;*

15               *(D) of recovery, by rebuilding communities*  
16       *so individuals, businesses, and governments can*  
17       *function on their own, return to normal life, and*  
18       *protect against future hazards; and*

19               *(E) of increased efficiencies, by coordinating*  
20       *efforts relating to preparedness and response ac-*  
21       *tivities to maximize efficiencies.*

22       *(b) FEDERAL RESPONSE PLAN.—*

23               *(1) ROLE OF FEMA.—Notwithstanding any other*  
24       *provision of this Act, the Federal Emergency Manage-*  
25       *ment Agency shall remain the lead agency for the*



1     *Federal Response Plan established under Executive*  
2     *Order 12148 (44 Fed. Reg. 43239) and Executive*  
3     *Order 12656 (53 Fed. Reg. 47491).*

4           (2) *REVISION OF RESPONSE PLAN.*—Not later  
5     *than 60 days after the date of enactment of this Act,*  
6     *the Director of the Federal Emergency Management*  
7     *Agency shall revise the Federal Response Plan to re-*  
8     *flect the establishment of and incorporate the Depart-*  
9     *ment.*

10          (3) *MEMORANDUM OF UNDERSTANDING.*—Not  
11     *later than 60 days after the date of enactment of this*  
12     *Act, the Secretary and the Director of the Federal*  
13     *Emergency Management Agency shall adopt a memo-*  
14     *randum of understanding to address the roles and re-*  
15     *sponsibilities of their respective agencies under this*  
16     *title.*

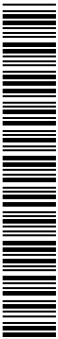
## 17           **TITLE VI—MANAGEMENT**

### 18     **SEC. 601. UNDER SECRETARY FOR MANAGEMENT.**

19           In assisting the Secretary with the management and  
20     administration of the Department, the primary respon-  
21     sibilities of the Under Secretary for Management shall in-  
22     clude, for the Department—

23           (1) the budget, appropriations, expenditures of  
24     funds, accounting, and finance;

25           (2) procurement;



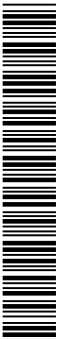
- 1 (3) human resources and personnel;
- 2 (4) information technology and communications
- 3 systems;
- 4 (5) facilities, property, equipment, and other
- 5 material resources;
- 6 (6) security for personnel, information tech-
- 7 nology and communications systems, facilities, prop-
- 8 erty, equipment, and other material resources; and
- 9 (7) identification and tracking of performance
- 10 measures relating to the responsibilities of the De-
- 11 partment.

12 **SEC. 602. CHIEF FINANCIAL OFFICER.**

13 The Chief Financial Officer shall report to the Sec-  
14 retary, or to another official of the Department, as the  
15 Secretary may direct.

16 **SEC. 603. CHIEF INFORMATION OFFICER.**

17 The Chief Information Officer shall report to the Sec-  
18 retary, or to another official of the Department, as the  
19 Secretary may direct.



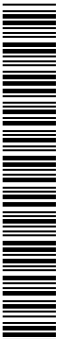
1 **TITLE VII—COORDINATION WITH**  
2 **NON-FEDERAL ENTITIES; IN-**  
3 **SPECTOR GENERAL; UNITED**  
4 **STATES SECRET SERVICE;**  
5 **GENERAL PROVISIONS**  
6 **Subtitle A—Coordination With**  
7 **Non-Federal Entities**

8 **SEC. 701. RESPONSIBILITIES.**

9 (a) *IN GENERAL.*—In discharging his responsibilities  
10 relating to coordination (including the provision of train-  
11 ing and equipment) with State and local government per-  
12 sonnel, agencies, and authorities, with the private sector,  
13 and with other entities, the responsibilities of the Sec-  
14 retary shall include—

15 ~~(1) coordinating with State and local govern-~~  
16 ~~ment personnel, agencies, and authorities, and with~~  
17 ~~the private sector, to ensure adequate planning,~~  
18 ~~equipment, training, and exercise activities;~~

19 ~~(2)~~ (1) coordinating and, as appropriate, con-  
20 solidating, the Federal Government's communica-  
21 tions and systems of communications relating to  
22 homeland security with State and local government  
23 personnel, agencies, and authorities, the private sec-  
24 tor, other entities, and the public;



1           ~~(3) directing and supervising grant programs of~~  
2           the Federal Government for State and local govern-  
3           ment emergency response providers; and

4           (2) *subject to subsection (b), directing and super-*  
5           *vising grant programs of the Federal Government for*  
6           *State, local, and tribal government emergency re-*  
7           *sponse providers; and*

8           ~~(4)~~ (3) *distributing or, as appropriate, coordi-*  
9           *nating the distribution of, warnings and information*  
10          *to State and local government personnel, agencies,*  
11          *and authorities and to the public.*

12          (b) *LIMITATION.*—*Subsection (a)(2) shall not be con-*  
13          *strued to affect any grant program carried out by the Direc-*  
14          *tor of the Federal Emergency Management Agency; except*  
15          *that the Director shall coordinate with the Secretary in*  
16          *making grants relating to emergency response providers.*

## 17           **Subtitle B—Inspector General**

### 18          **SEC. 710. AUTHORITY OF THE SECRETARY.**

19          (a) *IN GENERAL.*—Notwithstanding the last two sen-  
20          tences of section 3(a) of the Inspector General Act of  
21          1978, the Inspector General shall be under the authority,  
22          direction, and control of the Secretary with respect to au-  
23          dits or investigations, or the issuance of subpoenas, that  
24          require access to information concerning—



1           (1) intelligence, counterintelligence, or  
2 counterterrorism matters;

3           (2) ongoing criminal investigations or pro-  
4 ceedings;

5           (3) undercover operations;

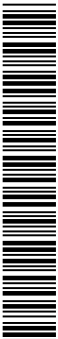
6           (4) the identity of confidential sources, includ-  
7 ing protected witnesses;

8           (5) other matters the disclosure of which would,  
9 in the Secretary's judgment, constitute a serious  
10 threat to the protection of any person or property  
11 authorized protection by section 3056 of title 18,  
12 United States Code, section 202 of title 3 of such  
13 Code, or any provision of the Presidential Protection  
14 Assistance Act of 1976; or

15           (6) other matters the disclosure of which would,  
16 in the Secretary's judgment, constitute a serious  
17 threat to national security.

18       (b) PROHIBITION OF CERTAIN INVESTIGATIONS.—

19 With respect to the information described in subsection  
20 (a), the Secretary may prohibit the Inspector General  
21 from carrying out or completing any audit or investiga-  
22 tion, or from issuing any subpoena, after such Inspector  
23 General has decided to initiate, carry out, or complete  
24 such audit or investigation or to issue such subpoena, if  
25 the Secretary determines that such prohibition is nec-



1    essary to prevent the disclosure of any information de-  
2    scribed in subsection (a), to preserve the national security,  
3    or to prevent a significant impairment to the interests of  
4    the United States.

5       (c) NOTIFICATION REQUIRED.—The Secretary shall  
6    notify the President of the Senate and the Speaker of the  
7    House of Representatives within thirty days of any exer-  
8    cise of his authority under this section.

9       **Subtitle C—United States Secret**  
10                   **Service**

11    **SEC. 720. FUNCTIONS TRANSFERRED.**

12       In accordance with title VIII, there shall be trans-  
13    ferred to the Secretary the functions, personnel, assets,  
14    and liabilities of the United States Secret Service, which  
15    shall be maintained as a distinct entity within the Depart-  
16    ment, including the functions of the Secretary of the  
17    Treasury relating thereto.

18       **Subtitle D—General Provisions**

19    **SEC. 730. ESTABLISHMENT OF HUMAN RESOURCES MAN-**  
20                   **AGEMENT SYSTEM.**

21       Title 5, United States Code, is amended by  
22    inserting—

23                   (1) after part III a new part as follows:





1           **“PART IV—DEPARTMENT OF HOMELAND**  
 2                           **SECURITY**  
 3                           **“CHAPTER 100**

“Sec.

“10001. Human Resources Management System.

4   **“§ 10001. Human Resources Management System**

5           “Notwithstanding any other provision of this title,  
 6 the Secretary of Homeland Security may, in regulations  
 7 prescribed jointly with the Director of the Office of Per-  
 8 sonnel Management, establish, and from time to time ad-  
 9 just, a human resources management system for some or  
 10 all of the organizational units of the Department of Home-  
 11 land Security, which shall be flexible, contemporary, and  
 12 grounded in the public employment principles of merit and  
 13 fitness.”; and

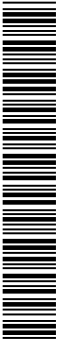
14           (2) the following after the matter relating to  
 15 part III in the analysis:

**“Part IV—Department of Homeland Security**

**“1. Human Resources Management System ..... 10001”.**

16   **SEC. 731. ADVISORY COMMITTEES.**

17           The Secretary may establish, appoint members of,  
 18 and use the services of, advisory committees, as he may  
 19 deem necessary. The service of an individual as a member  
 20 of an advisory committee established under this paragraph  
 21 shall not be considered to be service bringing him within  
 22 the provisions of sections 203, 205, or 207 of title 18,



1 United States Code, unless his act, which by any such sec-  
2 tion is made unlawful when performed by an individual  
3 referred to therein, is with respect to any particular mat-  
4 ter that directly involves the Department or in which the  
5 Department is directly interested. An advisory committee  
6 established under this section shall not be subject to Pub-  
7 lic Law 92-463, but the Secretary shall publish notice in  
8 the Federal Register announcing the establishment of  
9 such a committee and identifying its purpose and member-  
10 ship.

11 **SEC. 732. ACQUISITIONS; PROPERTY.**

12 (a) RESEARCH AND DEVELOPMENT PROJECTS.—(1)  
13 When the Secretary carries out basic, applied, and ad-  
14 vanced research and development projects, he may exercise  
15 the same authority (subject to the same limitations and  
16 conditions) with respect to such research and projects as  
17 the Secretary of Defense may exercise under section 2371  
18 of title 10, United States Code (except for subsections (b)  
19 and (f) of such section), after making a determination that  
20 the use of a contract, grant, or cooperative agreement for  
21 such project is not feasible or appropriate. The annual re-  
22 port required under subsection (h) of such section, as ap-  
23 plied to the Secretary by this paragraph, shall be sub-  
24 mitted to the President of the Senate and the Speaker  
25 of the House of Representatives.

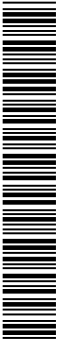


1       (2) The Secretary may, under the authority of para-  
2 graph (1), carry out prototype projects in accordance with  
3 the requirements and conditions provided for carrying out  
4 prototype projects under section 845 of the National De-  
5 fense Authorization Act for Fiscal Year 1994 (Public Law  
6 103–160). In applying the authorities of such section 845,  
7 subsection (c) thereof shall apply with respect to prototype  
8 projects under this paragraph, and the Secretary shall  
9 perform the functions of the Secretary of Defense under  
10 subsection (d) thereof.

11       (b) PERSONAL SERVICES.—Notwithstanding the time  
12 and pay limitations of section 3109 of title 5, United  
13 States Code, the Secretary may procure personal services,  
14 including the services of experts and consultants (or orga-  
15 nizations thereof).

16       (c) ~~EXEMPTION FROM CERTAIN AUTHORITIES.—~~  
17 ~~Section 602(d) of the Federal Property and Administra-~~  
18 ~~tive Services Act 1949 (40 U.S.C. 474(d)) is amended by~~  
19 ~~striking “; or (21)” and inserting “; (21) the Department~~  
20 ~~of Homeland Security; or (22)”.~~

21       (d) ~~REAL PROPERTY.—~~Notwithstanding any other  
22 ~~provision of law, the Secretary, in accordance with regula-~~  
23 ~~tions prescribed jointly with the Administrator of General~~  
24 ~~Services and the Director of the Office of Management~~  
25 ~~and Budget—~~



1           (1) may acquire replacement real property (in-  
2           cluding interests therein)—

3                   (A) by transfer or exchange of the Depart-  
4           ment's property with other executive agencies;  
5           or

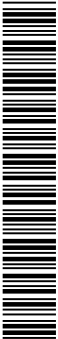
6                   (B) by sale to or exchange of the Depart-  
7           ment's property with non-Federal parties;

8           (2) by lease, permit, license, or other similar in-  
9           strument, may make available to other executive  
10          agencies and to non-Federal parties, on a fair mar-  
11          ket rental value basis, the unexpired portion of any  
12          government lease for real property occupied or pos-  
13          sessed by the Department;

14          (3) may make available by outlease agreements  
15          with other executive agencies or with non-Federal  
16          parties, any unused or underused portion of or inter-  
17          est in any real or related personal property occupied  
18          or possessed by the Department; and

19          (4) may deposit the proceeds of any exercise of  
20          the authority granted by this subsection into any ac-  
21          count in the Treasury available to him, without re-  
22          gard to fiscal year limitations.

23          (e) DELEGATION OF CERTAIN RESPONSIBILITIES.—  
24          Upon the written request of the Secretary, the Adminis-  
25          trator of General Services shall delegate to him all respon-



1 sibilities and authorities provided by law to the Adminis-  
2 trator for the care and handling of the Department's sur-  
3 plus real and related personal property, pending its dis-  
4 position, and for the disposal of such property.

5 (f) RECOVERY OF COSTS.—Notwithstanding any  
6 other provision of law, the Secretary may retain, from the  
7 proceeds of the sale of personal property, amounts nec-  
8 essary to recover, to the extent practicable, the full costs  
9 (direct and indirect) incurred by the Secretary in dis-  
10 posing of such property, including but not limited to the  
11 costs of warehousing, storage, environmental services, ad-  
12 vertising, appraisal, and transportation. Such amounts  
13 shall be deposited into an account available for such ex-  
14 penses without regard to fiscal year limitations.

15 (c) DEPARTMENT HEADQUARTERS.—

16 (1) IN GENERAL.—Subject to the requirements of  
17 the Public Buildings Act of 1959 (40 U.S.C. 601 et  
18 seq.), the Administrator of General Services shall con-  
19 struct a public building to serve as the headquarters  
20 for the Department.

21 (2) LOCATION AND CONSTRUCTION STAND-  
22 ARDS.—The headquarters facility shall be constructed  
23 to such standards and specifications and at such a lo-  
24 cation as the Administrator of General Services de-  
25 cides. In selecting a site for the headquarters facility,

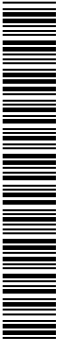
1        *the Administrator shall give preference to parcels of*  
2        *land that are federally owned.*

3            (3) *SCORING OF EXPENDITURES, OBLIGATIONS,*  
4        *AND APPROPRIATIONS.—Notwithstanding any provi-*  
5        *sion of the Congressional Budget Act of 1974 (2*  
6        *U.S.C. 621 et seq.), the Balanced Budget and Emer-*  
7        *gency Deficit Control Act of 1985 (2 U.S.C. 900 et*  
8        *seq.), or chapter 13 or 15 of title 31, United States*  
9        *Code, or any other provision of law, any expendi-*  
10       *tures, obligations, and appropriations made for the*  
11       *headquarters facility shall be scored on an annual*  
12       *basis.*

13           (4) *ALTERNATE FINANCING METHODS.—In the*  
14        *absence of appropriations in fiscal year 2003 for Fed-*  
15        *eral construction of the headquarters facility—*

16           (A) *the Administrator of General Services*  
17        *may construct the facility by lease-purchase or*  
18        *installment purchase and may use any lease or*  
19        *installment purchase instrument as a means of*  
20        *financing the acquisition of a site, if necessary,*  
21        *and the construction of the facility, either*  
22        *through commercial financial establishments or*  
23        *through the Federal Financing Bank;*

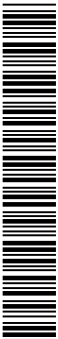
24           (B) *any lease or installment purchase obli-*  
25        *gation of the Administrator used in financing*



1        *the construction of the facility shall be scored, for*  
2        *borrowing authority or budget authority pur-*  
3        *poses, only to the extent outlays are made from*  
4        *the Federal Buildings Fund annually to amor-*  
5        *tize such obligations; and*

6                *(C) if the financing is placed with the Fed-*  
7        *eral Financing Bank, any loans, promissory*  
8        *notes, draws, or other disbursements made by the*  
9        *Bank and secured by the lease rental or install-*  
10       *ment contract payments by the Administrator of*  
11       *General Services shall for budgetary purposes be*  
12       *treated as a means of financing the Department*  
13       *or the General Services Administration, but only*  
14       *to the extent outlays are made from the Federal*  
15       *Buildings Fund annually to amortize such obli-*  
16       *gations.*

17                *(5) USE OF HEADQUARTERS FACILITY.—The Ad-*  
18       *ministrator of General Services shall make the head-*  
19       *quarter facility, as well as other Government-owned*  
20       *or leased facilities, available to the Secretary pursu-*  
21       *ant to the Administrator's authorities under section*  
22       *210 of the Federal Property and Administrative Serv-*  
23       *ices Act of 1949 (40 U.S.C. 490 et seq.) and there is*  
24       *authorized to be appropriated to the Secretary such*  
25       *amounts as may be necessary to pay the annual*



1       *charges for General Services Administration furnished*  
2       *space and services.*

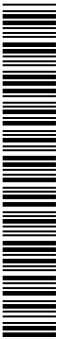
3   **SEC. 733. REORGANIZATION; TRANSFER.**

4       (a) ALLOCATION OF FUNCTIONS.—The Secretary is  
5 authorized to allocate or reallocate functions among the  
6 officers of the Department, and to establish, consolidate,  
7 alter, or discontinue such organizational units within the  
8 Department, as he may deem necessary or appropriate,  
9 but such authority does not extend to—

10           (1) any entity transferred to the Department  
11       and established by statute, or any function vested by  
12       statute in such an entity or officer of such an entity,  
13       unless not less than ninety days' notice has been  
14       given to the President of the Senate and Speaker of  
15       the House of Representatives; or

16           (2) the abolition of any entity established or re-  
17       quired to be maintained as a distinct entity by this  
18       Act.

19       (b) TRANSFER OF APPROPRIATIONS.—Except as oth-  
20       erwise specifically provided by law, not to exceed five per-  
21       cent of any appropriation available to the Secretary in any  
22       fiscal year may be transferred between such appropria-  
23       tions, except that not less than fifteen days' notice shall  
24       be given to the Committees on Appropriations of the Sen-





1 ate and House of Representatives before any such transfer  
2 is made.

3 **SEC. 734. MISCELLANEOUS PROVISIONS.**

4 (a) SEAL.—The Department shall have a seal, whose  
5 design is subject to the approval of the President.

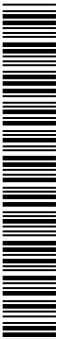
6 (b) GIFTS, DEVISES, AND BEQUESTS.—With respect  
7 to the Department, the Secretary shall have the same au-  
8 thorities that the Attorney General has with respect to the  
9 Department of Justice under section 524(d) of title 28,  
10 United States Code.

11 (c) PARTICIPATION OF MEMBERS OF THE ARMED  
12 FORCES.—With respect to the Department, the Secretary  
13 shall have the same authorities that the Secretary of  
14 Transportation has with respect to the Department of  
15 Transportation under section 324 of title 49, United  
16 States Code.

17 (d) REDELEGATION OF FUNCTIONS.—Unless other-  
18 wise provided in the delegation or by law, any function  
19 delegated under this Act may be redelegated to any subor-  
20 dinate.

21 **SEC. 735. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated such sums  
23 as may be necessary to carry out the provisions of this  
24 Act.



1           **TITLE VIII—TRANSITION**

2   **SEC. 801. DEFINITIONS.**

3           For purposes of this title—

4               (1) the term “agency” includes any entity, or-  
5               ganizational unit, or function; and

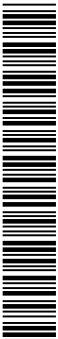
6               (2) the term “transition period” means the 12-  
7               month period beginning on ~~the effective date of this~~  
8               ~~Act~~ *the date of transmittal of a plan to Congress*  
9               *under sectin 802(b).*

10   **SEC. 802. TRANSFER OF AGENCIES.**

11           ~~The transfer~~ *(a) IN GENERAL.—Subject to subsection*  
12           *(b), the transfer* of an agency to the Department shall  
13           occur when the President so directs, but in no event later  
14           than the end of the transition period. When an agency  
15           is transferred, the President may also transfer to the De-  
16           partment any agency established to carry out or support  
17           adjudicatory or review functions in relation to the agency.

18           *(b) ORGANIZATION PLAN.—*

19               *(1) PLAN TO BE COMPLETED BEFORE TRANS-*  
20               *FERS OCCUR.—The transfer of an agency, or any of*  
21               *its functions, to the Department under this Act shall*  
22               *not occur before the last day of a 60-day period of*  
23               *continuous session of Congress following the date of*  
24               *transmittal by the Secretary to Congress of a plan for*  
25               *the organization of the Department.*



1           (2) *CONTENTS OF PLAN.*—*The plan submitted*  
2           *under paragraph (1) shall include—*

3                   (A) *a designation of which agency in the*  
4                   *Department will be carrying out each of the*  
5                   *functions assigned to the Department;*

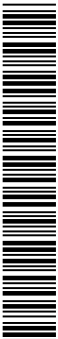
6                   (B) *a proposal for funding the Department;*

7                   (C) *a designation of the number of employ-*  
8                   *ees that will be employed by the Department;*

9                   (D) *a description of the manner in which*  
10                  *the Department will carry out each function or*  
11                  *service transferred to the Department from an-*  
12                  *other agency; and*

13                  (E) *a designation of the number of employ-*  
14                  *ees who will be performing each function or serv-*  
15                  *ice transferred to the Department from another*  
16                  *agency.*

17           (3) *CONGRESSIONAL REVIEW PERIOD.*—*For pur-*  
18           *poses of paragraph (1), continuity of a session of*  
19           *Congress is broken only by an adjournment sine die,*  
20           *and there shall be excluded from the computation of*  
21           *the 60-day period any day during which either House*  
22           *of Congress is not in session during an adjournment*  
23           *of more than 3 days to a day certain.*



1 **SEC. 803. TRANSITIONAL AUTHORITIES.**

2 (a) PROVISION OF ASSISTANCE BY OFFICIALS.—

3 Until the transfer of an agency to the Department, any  
4 official having authority over or functions relating to the  
5 agency immediately before the effective date of this Act  
6 shall provide to the Secretary such assistance, including  
7 the use of personnel and assets, as he may request in pre-  
8 paring for the transfer and integration of the agency into  
9 the Department.

10 (b) SERVICES AND PERSONNEL.—During the transi-  
11 tion period, upon the request of the Secretary, the head  
12 of any executive agency may, on a reimbursable or non-  
13 reimbursable basis, provide services or detail personnel to  
14 assist with the transition.

15 (c) TRANSFER OF FUNDS.—Until the transfer of an  
16 agency to the Department, the President is authorized to  
17 transfer to the Secretary not to exceed five percent of the  
18 unobligated balance of any appropriation available to such  
19 agency, to fund the purposes authorized in this Act, except  
20 that not less than 15 days' notice shall be given to the  
21 Committees on Appropriations of the Senate and House  
22 of Representatives before any such funds transfer is made.

23 (d) ACTING OFFICIALS.—(1) During the transition  
24 period, pending the advice and consent of the Senate to  
25 the appointment of an officer required by this Act to be  
26 appointed by and with such advice and consent, the Presi-

1 dent may designate any officer whose appointment was re-  
2 quired to be made by and with such advice and consent  
3 and who was such an officer immediately before the effec-  
4 tive date of this Act (and who continues in office) or im-  
5 mediately before such designation, to act in such office  
6 until the same is filled as provided in this Act. While so  
7 acting, such officers shall receive compensation at the  
8 higher of—

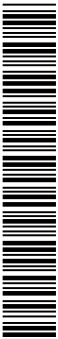
9 (A) the rates provided by this Act for the re-  
10 spective offices in which they act; or

11 (B) the rates provided for the offices held at  
12 the time of designation.

13 (2) Nothing in this Act shall be understood to require  
14 the advice and consent of the Senate to the appointment  
15 by the President to a position in the Department of any  
16 officer whose agency is transferred to the Department  
17 pursuant to this Act and whose duties following such  
18 transfer are germane to those performed before such  
19 transfer.

20 (e) TRANSFER OF PERSONNEL, ASSETS, LIABIL-  
21 ITIES, AND FUNCTIONS.—Upon the transfer of an agency  
22 to the Department—

23 (1) the personnel, assets, and liabilities held by  
24 or available in connection with the agency shall be  
25 transferred to the Secretary for appropriate alloca-



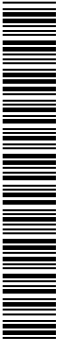
1       tion, subject to the approval of the Director of the  
2       Office of Management and Budget and notwith-  
3       standing the provisions of section 1531(a)(2) of title  
4       31, United States Code; and

5           (2) the Secretary shall have all functions relat-  
6       ing to the agency that any other official could by law  
7       exercise in relation to the agency immediately before  
8       such transfer, and shall have in addition all func-  
9       tions vested in the Secretary by this Act or other  
10      law.

11      (f) *PROHIBITION ON USE OF TRANSPORTATION TRUST*  
12      *FUNDS.*—

13           (1) *IN GENERAL.*—*Notwithstanding any other*  
14      *provision of this Act, no funds derived from the High-*  
15      *way Trust Fund, Airport and Airway Trust Fund,*  
16      *Inland Waterway Trust Fund, Harbor Maintenance*  
17      *Trust Fund, or Oil Spill Liability Trust Fund may*  
18      *be transferred to, made available to, or obligated by*  
19      *the Secretary or any other official in the Department.*

20           (2) *LIMITATION.*—*This subsection shall not*  
21      *apply to security-related funds provided to the Fed-*  
22      *eral Aviation Administration for fiscal years pre-*  
23      *ceding fiscal year 2003 for (A) operations, (B) facili-*  
24      *ties and equipment, or (C) research, engineering, and*  
25      *development.*



1 **SEC. 804. SAVINGS PROVISIONS.**

2 (a) COMPLETED ADMINISTRATIVE ACTIONS.—(1)  
3 Completed administrative actions of an agency shall not  
4 be affected by the enactment of this Act or the transfer  
5 of such agency to the Department, but shall continue in  
6 effect according to their terms until amended, modified,  
7 superseded, terminated, set aside, or revoked in accord-  
8 ance with law by an officer of the United States or a court  
9 of competent jurisdiction, or by operation of law.

10 (2) For purposes of paragraph (1), the term “com-  
11 pleted administrative action” includes orders, determina-  
12 tions, rules, regulations, personnel actions, permits, agree-  
13 ments, grants, contracts, certificates, licenses, registra-  
14 tions, and privileges.

15 (b) PENDING PROCEEDINGS.—Subject to the author-  
16 ity of the Secretary under this Act—

17 (1) pending proceedings in an agency, including  
18 notices of proposed rulemaking, and applications for  
19 licenses, permits, certificates, grants, and financial  
20 assistance, shall continue notwithstanding the enact-  
21 ment of this Act or the transfer of the agency to the  
22 Department, unless discontinued or modified under  
23 the same terms and conditions and to the same ex-  
24 tent that such discontinuance could have occurred if  
25 such enactment or transfer had not occurred; and



1           (2) orders issued in such proceedings, and ap-  
2       peals therefrom, and payments made pursuant to  
3       such orders, shall issue in the same manner and on  
4       the same terms as if this Act had not been enacted  
5       or the agency had not been transferred, and any  
6       such orders shall continue in effect until amended,  
7       modified, superseded, terminated, set aside, or re-  
8       voked by an officer of the United States or a court  
9       of competent jurisdiction, or by operation of law.

10       (c) PENDING CIVIL ACTIONS.—Subject to the author-  
11      ity of the Secretary under this Act, pending civil actions  
12      shall continue notwithstanding the enactment of this Act  
13      or the transfer of an agency to the Department, and in  
14      such civil actions, proceedings shall be had, appeals taken,  
15      and judgments rendered and enforced in the same manner  
16      and with the same effect as if such enactment or transfer  
17      had not occurred.

18       (d) REFERENCES.—References relating to an agency  
19      that is transferred to the Department in statutes, Execu-  
20      tive orders, rules, regulations, directives, or delegations of  
21      authority that precede such transfer or the effective date  
22      of this Act shall be deemed to refer, as appropriate, to  
23      the Department, to its officers, employees, or agents, or  
24      to its corresponding organizational units or functions.  
25      Statutory reporting requirements that applied in relation





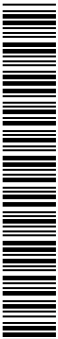
1 to such an agency immediately before the effective date  
2 of this Act shall continue to apply following such transfer  
3 if they refer to the agency by name.

4 (e) EMPLOYMENT PROVISIONS.—(1) Notwith-  
5 standing the generality of the foregoing (including sub-  
6 sections (a) and (d)), in and for the Department the Sec-  
7 retary may, in regulations prescribed jointly with the Di-  
8 rector of the Office of Personnel Management, adopt the  
9 rules, procedures, terms, and conditions, established by  
10 statute, rule, or regulation before the effective date of this  
11 Act, relating to employment in any agency transferred to  
12 the Department pursuant to this Act; and

13 (2) except as otherwise provided in this Act, or under  
14 authority granted by this Act, the transfer pursuant to  
15 this Act of personnel shall not alter the terms and condi-  
16 tions of employment, including compensation, of any em-  
17 ployee so transferred.

18 **SEC. 805. TERMINATIONS.**

19 Except as otherwise provided in this Act, whenever  
20 all the functions vested by law in any agency have been  
21 transferred pursuant to this Act, each position and office  
22 the incumbent of which was authorized to receive com-  
23 pensation at the rates prescribed for an office or position  
24 at level II, III, IV, or V, of the Executive Schedule, shall  
25 terminate.



1 **SEC. 806. INCIDENTAL TRANSFERS.**

2 The Director of the Office of Management and Budg-  
3 et, in consultation with the Secretary, is authorized and  
4 directed to make such additional incidental dispositions of  
5 personnel, assets, and liabilities held, used, arising from,  
6 available, or to be made available, in connection with the  
7 functions transferred by this Act, as he may deem nec-  
8 essary to accomplish the purposes of this Act.

9 **TITLE IX—CONFORMING AND**  
10 **TECHNICAL AMENDMENTS**

11 **SEC. 901. INSPECTOR GENERAL ACT.**

12 Section 11 of the Inspector General Act of 1978  
13 (Public Law 95–452) is amended—

14 (1) by inserting “Homeland Security,” after  
15 “Transportation,” each place it appears;

16 (2) by striking “; and” each place it appears  
17 and inserting “;”;

18 (3) by striking “,” and inserting “,”; and

19 (4) by striking “;” and inserting “;”.

20 **SEC. 902. EXECUTIVE SCHEDULE.**

21 Title 5, United States Code, is amended—

22 (1) in section 5312, by inserting “Secretary of  
23 Homeland Security.” as a new item after “Affairs.”;

24 (2) in section 5313, by inserting “Deputy Sec-  
25 retary of Homeland Security.” as a new item after  
26 “Affairs.”;

1 (3) in section 5314, by inserting “Under Secre-  
2 taries, Department of Homeland Security.” as a new  
3 item after “Affairs.” the third place it appears;

4 (4) in section 5315, by inserting “Assistant  
5 Secretaries, Department of Homeland Security.”,  
6 “General Counsel, Department of Homeland Secu-  
7 rity.”, “Chief Financial Officer, Department of  
8 Homeland Security.”, “Chief Information Officer,  
9 Department of Homeland Security.”, and “Inspector  
10 General, Department of Homeland Security.” as new  
11 items after “Affairs.” the first place it appears.

12 **SEC. 903. UNITED STATES SECRET SERVICE.**

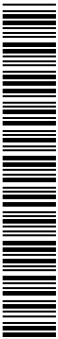
13 (a) IN GENERAL.—The United States Code is  
14 amended in sections 202 and 208 of title 3, and in section  
15 3056 of title 18, by striking “of the Treasury”, each place  
16 it appears and inserting “of Homeland Security”.

17 (b) EFFECTIVE DATE.—The amendments made by  
18 this section shall take effect on the date of transfer of  
19 the United States Secret Service to the Department.

20 **SEC. 904. COAST GUARD.**

21 ~~(a) TITLE 14, U.S.C.—Title 14 of the United States~~  
22 ~~Code is amended—~~

23 ~~(1) in sections 1, 3, 53, 95, 145, 516, 666, 669,~~  
24 ~~673 (as added by Public Law 104-201), 673 (as~~  
25 ~~added by Public Law 104-324), 674, 687, and 688,~~



1 by striking “of Transportation”, each place it ap-  
2 pears, and inserting “of Homeland Security”; and  
3 ~~(2) after executing the other amendments re-~~  
4 ~~quired by this subsection, by redesignating the sec-~~  
5 ~~tion 673 added by Public Law 104-324 as section~~  
6 ~~673a.~~

7 ~~(b) TITLE 10, U.S.C.—Section 801(1) of title 10,~~  
8 ~~United States Code, is amended by striking “the General~~  
9 ~~Counsel of the Department of Transportation” and insert-~~  
10 ~~ing “an official designated to serve as Judge Advocate~~  
11 ~~General of the Coast Guard by the Secretary of Homeland~~  
12 ~~Security”.~~

13 ~~(c) EFFECTIVE DATE.—The amendments made by~~  
14 ~~this section shall take effect on the date of transfer of~~  
15 ~~the Coast Guard to the Department.~~

16 **SEC. ~~905.~~ 904. STRATEGIC NATIONAL STOCKPILE AND**  
17 **SMALLPOX VACCINE DEVELOPMENT.**

18 (a) IN GENERAL.—The Public Health Security and  
19 Bioterrorism Preparedness and Response Act of 2002 is  
20 amended—

21 (1) in section 121(a)(1)—

22 (A) by striking “Secretary of Health and  
23 Human Services” and inserting “Secretary of  
24 Homeland Security”;

1 (B) by inserting “the Secretary of Health  
2 and Human Services and” between “in coordi-  
3 nation with” and “the Secretary of Veterans  
4 Affairs”; and

5 (C) by inserting “of Health and Human  
6 Services” after “as are determined by the Sec-  
7 retary”; and

8 (2) in subsections 121(a)(2) and (b), by insert-  
9 ing “of Health and Human Services” after “Sec-  
10 retary” each place it appears.

11 (b) EFFECTIVE DATE.—The amendments made by  
12 this section shall take effect on the date of transfer of  
13 the Strategic National Stockpile of the Department of  
14 Health and Human Services to the Department.

15 **SEC. ~~906~~. 905. SELECT AGENT REGISTRATION.**

16 (a) PUBLIC HEALTH SERVICE ACT.—The Public  
17 Health Service Act is amended—

18 (1) in section 351A(a)(1)(A), by inserting “(as  
19 defined in subsection (l)(9))” after “Secretary”;

20 (2) in section 351A(h)(2)(A), by inserting “De-  
21 partment of Homeland Security, the” before “De-  
22 partment of Health and Human Services”;

23 (3) in section 351A(l), by inserting after para-  
24 graph (8) a new paragraph as follows:



1 “(9) The term ‘Secretary’ means the Secretary  
2 of Homeland Security, in consultation with the Sec-  
3 retary of Health and Human Services.”; and

4 (4) in section 352A(i)—

5 (A) by striking “(1)” the first place it ap-  
6 pears; and

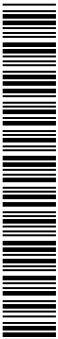
7 (B) by striking paragraph (2).

8 (b) PUBLIC HEALTH SECURITY AND BIOTERRORISM  
9 PREPAREDNESS AND RESPONSE ACT OF 2002.—Section  
10 201(b) of the Public Health Security and Bioterrorism  
11 Preparedness and Response Act of 2002 is amended by  
12 striking “Secretary of Health and Human Services” and  
13 inserting “Secretary of Homeland Security”.

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall take effect on the date of transfer of  
16 the select agent registration enforcement programs and  
17 activities of the Department of Health and Human Serv-  
18 ices to the Department.

19 **SEC. ~~907.~~ 906. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS**  
20 **CENTER.**

21 There is established in the Department of Defense  
22 a National Bio-Weapons Defense Analysis Center, whose  
23 mission is to develop countermeasures to potential attacks  
24 by terrorists using weapons of mass destruction.



1 **SEC. 907. TRANSPORTATION SECURITY.**

2 (a) TRANSPORTATION SECURITY OVERSIGHT  
3 BOARD.—

4 (1) ESTABLISHMENT.—Section 115(a) of title 49,  
5 United States Code, is amended by striking “Depart-  
6 ment of Transportation” and inserting “Department  
7 of Homeland Security”.

8 (2) MEMBERSHIP.—Section 115(b)(1) of title 49,  
9 United States Code, is amended—

10 (A) by striking subparagraph (G);

11 (B) by redesignating subparagraphs (A)  
12 through (F) as subparagraphs (B) through (G),  
13 respectively; and

14 (C) by inserting before subparagraph (B)  
15 (as so redesignated) the following:

16 “(A) The Secretary of Homeland Security,  
17 or the Secretary’s designee.”.

18 (3) CHAIRPERSON.—Section 115(b)(2) of title 49,  
19 United States Code, is amended by striking “Sec-  
20 retary of Transportation” and inserting “Secretary of  
21 Homeland Security”.

22 (b) APPROVAL OF AIP GRANT APPLICATIONS FOR SE-  
23 CURITY ACTIVITIES.—Section 47106 of title 49, United  
24 States Code, is amended by adding at the end the following:

25 “(g) CONSULTATION WITH SECRETARY OF HOMELAND  
26 SECURITY.—The Secretary shall consult with the Secretary

1 *of Homeland Security before approving an application*  
2 *under this subchapter for an airport development project*  
3 *grant for activities described in section 47102(3)(B)(ii) (re-*  
4 *lating to security equipment) or section 47102(3)(B)(x) (re-*  
5 *lating to installation of bulk explosive detection systems).”.*

6 **SEC. 908. TRANSFER OF CERTAIN SECURITY AND LAW EN-**  
7 **FORCEMENT FUNCTIONS AND AUTHORITIES.**

8 (a) *AMENDMENT TO PROPERTY ACT.*—Section  
9 *210(a)(2) of the Federal Property and Administrative Serv-*  
10 *ices Act of 1949 (40 U.S.C. 490(a)(2)) is repealed.*

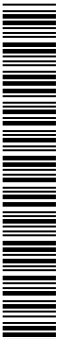
11 (b) *LAW ENFORCEMENT AUTHORITY.*—The Act of June  
12 *1, 1948 (40 U.S.C. 318–318d; chapter 359; 62 Stat. 281)*  
13 *is amended to read as follows:*

14 **“SECTION 1. SHORT TITLE.**

15 *“This Act may be cited as the ‘Protection of Public*  
16 *Property Act’.*

17 **“SEC. 2. LAW ENFORCEMENT AUTHORITY OF SECRETARY**  
18 **OF HOMELAND SECURITY FOR PROTECTION**  
19 **OF PUBLIC PROPERTY.**

20 *“(a) IN GENERAL.—The Secretary of Homeland Secu-*  
21 *rity (in this Act referred to as the “Secretary”) shall protect*  
22 *the buildings, grounds, and property that are owned, occu-*  
23 *pied, or secured by the Federal Government (including any*  
24 *agency, instrumentality, or wholly owned or mixed-owner-*  
25 *ship corporation thereof) and the persons on the property.*





1       “(b) *OFFICERS AND AGENTS.*—

2               “(1) *DESIGNATION.*—*The Secretary may des-*  
3       *ignat**e employees of the Department of Homeland Se-*  
4       *curity, including employees transferred to the Depart-*  
5       *ment from the Office of the Federal Protective Service*  
6       *of the General Services Administration pursuant to*  
7       *the Homeland Security Act of 2002, as officers and*  
8       *agents for duty in connection with the protection of*  
9       *property owned or occupied by the Federal Govern-*  
10       *ment and persons on the property, including duty in*  
11       *areas outside the property to the extent necessary to*  
12       *protect the property and persons on the property.*

13               “(2) *POWERS.*—*While engaged in the perform-*  
14       *ance of official duties, an officer or agent designated*  
15       *under this subsection may—*

16                       “(A) *enforce Federal laws and regulations*  
17                       *for the protection of persons and property;*

18                       “(B) *carry firearms;*

19                       “(C) *make arrests without a warrant for*  
20       *any offense against the United States committed*  
21       *in the presence of the officer or agent or for any*  
22       *felony cognizable under the laws of the United*  
23       *States if the officer or agent has reasonable*  
24       *grounds to believe that the person to be arrested*  
25       *has committed or is committing a felony;*

1           “(D) serve warrants and subpoenas issued  
2           under the authority of the United States; and

3           “(E) conduct investigations, on and off the  
4           property in question, of offenses that may have  
5           been committed against property owned or occu-  
6           pied by the Federal Government or persons on  
7           the property.

8           “(F) carry out such other activities for the  
9           promotion of homeland security as the Secretary  
10          may prescribe.

11       “(c) REGULATIONS.—

12           “(1) IN GENERAL.—The Secretary, in consulta-  
13          tion with the Administrator of General Services, may  
14          prescribe regulations necessary for the protection and  
15          administration of property owned or occupied by the  
16          Federal Government and persons on the property. The  
17          regulations may include reasonable penalties, within  
18          the limits prescribed in paragraph (2), for violations  
19          of the regulations. The regulations shall be posted and  
20          remain posted in a conspicuous place on the property.

21           “(2) PENALTIES.—A person violating a regula-  
22          tion prescribed under this subsection shall be fined  
23          under title 18, United States Code, imprisoned for not  
24          more than 30 days, or both.

25       “(d) DETAILS.—

1           “(1) *REQUESTS OF AGENCIES.*—*On the request*  
2           *of the head of a Federal agency having charge or con-*  
3           *trol of property owned or occupied by the Federal*  
4           *Government, the Secretary may detail officers and*  
5           *agents designated under this section for the protection*  
6           *of the property and persons on the property.*

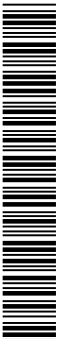
7           “(2) *APPLICABILITY OF REGULATIONS.*—*The Sec-*  
8           *retary may—*

9                   “(A) *extend to property referred to in para-*  
10                  *graph (1) the applicability of regulations pre-*  
11                  *scribed under this section and enforce the regula-*  
12                  *tions as provided in this section; or*

13                  “(B) *utilize the authority and regulations of*  
14                  *the requesting agency if agreed to in writing by*  
15                  *the agencies.*

16           “(3) *FACILITIES AND SERVICES OF OTHER AGEN-*  
17           *CIES.*—*When the Secretary determines it to be eco-*  
18           *nomical and in the public interest, the Secretary may*  
19           *utilize the facilities and services of Federal, State,*  
20           *and local law enforcement agencies, with the consent*  
21           *of the agencies.*

22           “(e) *AUTHORITY OUTSIDE FEDERAL PROPERTY.*—*For*  
23           *the protection of property owned or occupied by the Federal*  
24           *Government and persons on the property, the Secretary*  
25           *may enter into agreements with Federal agencies and with*



1 *State and local governments to obtain authority for officers*  
2 *and agents designated under this section to enforce Federal*  
3 *laws and State and local laws concurrently with other Fed-*  
4 *eral law enforcement officers and with State and local law*  
5 *enforcement officers.*

6 “(f) *SECRETARY AND ATTORNEY GENERAL AP-*  
7 *PROVAL.—The powers granted to officers and agents des-*  
8 *ignated under this section shall be exercised in accordance*  
9 *with guidelines approved by the Secretary and the Attorney*  
10 *General.*

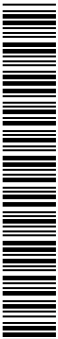
11 “(g) *LIMITATION ON STATUTORY CONSTRUCTION.—*  
12 *Nothing in this section shall be construed to—*

13 “(1) *preclude or limit the authority of any Fed-*  
14 *eral law enforcement agency; or*

15 “(2) *restrict the authority of the Administrator*  
16 *of General Services to promulgate regulations affect-*  
17 *ing property under the Administrator’s custody and*  
18 *control.*

19 **“SEC. 3. SPECIAL PAY.**

20 “*Without regard to the pay provisions of chapter 51*  
21 *of title 5, United States Code, and subchapter III of chapter*  
22 *53 of such title, the Secretary may, in the Secretary’s sole*  
23 *discretion, fix the rates of basic pay for the positions occu-*  
24 *piated by officers and agents designated under this Act so*  
25 *as to enable the officers and agents to be appropriately com-*



1 *pensated in comparison to personnel performing com-*  
2 *parable duties in other law enforcement organizations in*  
3 *the local labor market.”.*

4 *(c) MAXIMUM AGE FOR ENTRY INTO THE POSITION OF*  
5 *FEDERAL PROTECTIVE SERVICE OFFICER.—Section 3307*  
6 *of title 5, United States Code, is amended—*

7 *(1) in subsection (a) by striking “and (f)” and*  
8 *inserting “(f), and (g)”;* and

9 *(2) by adding at the end the following:*

10 *“(g) The Secretary of Homeland Security may deter-*  
11 *mine and fix the maximum age limit for an original ap-*  
12 *pointment to a position as a Federal Protective Service Of-*  
13 *ficer, as defined by section 8331(29) or 8401(35).”.*

14 *(d) AMENDMENTS RELATING TO THE CIVIL SERVICE*  
15 *RETIREMENT SYSTEM.—*

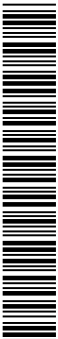
16 *(1) DEFINITION.—Section 8331 of title 5, United*  
17 *States Code, is amended—*

18 *(A) by striking “and” at the end of para-*  
19 *graph (27);*

20 *(B) by striking the period at the end of*  
21 *paragraph (28) and inserting “; and”;* and

22 *(C) by adding at the end the following:*

23 *“(29) ‘Federal Protective Service Officer’*  
24 *means—*



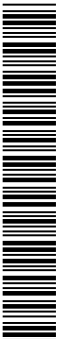
1           “(A) an employee occupying a position in  
2           the Department of Homeland Security and des-  
3           ignated as an officer or agency under section  
4           2(b)(1) of the Protection of Public Property Act,  
5           the duties of which position are primarily—

6                   “(i) to detect, investigate, apprehend,  
7                   arrest, or detain individuals suspected or  
8                   convicted of offenses against the criminal  
9                   laws of the United States;

10                   “(ii) to protect and secure the personal  
11                   safety of officials and other employees of the  
12                   United States, as well as occupants and  
13                   visitors on federally controlled property;  
14                   and

15                   “(iii) to gather, assess, and analyze in-  
16                   formation relating to threats, and to re-  
17                   spond to threats and attacks, against per-  
18                   sons and property of the United States; and

19           “(B) an employee who is transferred di-  
20           rectly to a supervisory or administrative posi-  
21           tion in the Department of Homeland Security  
22           from a position of Federal Protective Service Of-  
23           ficer (as defined by subparagraph (A)) or law  
24           enforcement officer;





1       *title 5, United States Code, is amended by adding at*  
2       *the end the following:*

3       “(v) *The annuity of a Federal Protective Service Offi-*  
4       *cer retiring under section 8335(e) is—*

5               “(1) *2½ percent of the officer’s average pay mul-*  
6       *tiplied by so much of his total service, performed as*  
7       *a Federal Protective Service Officer or law enforce-*  
8       *ment officer, as does not exceed 20 years; plus*

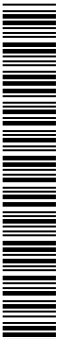
9               “(2) *2 percent of the officer’s average pay multi-*  
10       *plied by so much of his total service as exceeds the*  
11       *number of years of service taken into account under*  
12       *paragraph (1).”.*

13               (4)       *IMMEDIATE RETIREMENT.—Section*  
14       *8336(c)(1) of title 5, United States Code, is amended*  
15       *by striking “or nuclear materials courier” and insert-*  
16       *ing “nuclear materials courier, or Federal Protective*  
17       *Service Officer”.*

18               (5) *MANDATORY SEPARATION.—*

19                       (A) *IN GENERAL.—Section 8335(b) of title*  
20       *5, United States Code, is amended—*

21                               (i) *by striking “or nuclear materials*  
22                               *courier” and inserting “nuclear materials*  
23                               *courier, or Federal Protective Service Offi-*  
24                               *cer (other than one described in subsection*  
25                               *(e))”; and*

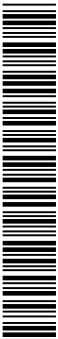




1                   (ii) by striking “or courier” and in-  
2                   serting “courier, or Federal Protective Serv-  
3                   ice Officer (other than one described in sub-  
4                   section (e))”.

5                   (B) PROVISIONS RELATING TO CERTAIN IN-  
6                   CUMBENTS.—Section 8335 of title 5, United  
7                   States Code, is amended by inserting after sub-  
8                   section (d) the following:

9                   “(e) A Federal Protective Service Officer who is em-  
10                  ployed by the Office of the Federal Protective Service of the  
11                  General Services Administration on the date of the enact-  
12                  ment of the Homeland Security Act of 2002, and who is  
13                  otherwise eligible for immediate retirement under section  
14                  8336, shall be separated from the service on the last day  
15                  of the month in which such officer becomes 57 years of age  
16                  or completes 10 years of service as a Federal Protective  
17                  Service Officer if then over that age. The Secretary of  
18                  Homeland Security, under such regulations as the Sec-  
19                  retary may prescribe, may exempt a Federal Protective  
20                  Service Officer having exceptional skills and experience as  
21                  a Federal Protective Service Officer from the automatic sep-  
22                  aration provisions of this subsection until the officer be-  
23                  comes 60 years of age. The Secretary shall notify the officer  
24                  in writing of the date of separation at least 60 days before  
25                  that date. Action to separate the officer is not effective, with-



1 *out the consent of the officer, until the last day of the month*  
 2 *in which the 60-day notice expires.”.*

3 *(e) AMENDMENTS RELATING TO THE FEDERAL EM-*  
 4 *PLOYEES’ RETIREMENT SYSTEM.—*

5 *(1) DEFINITION.—Section 8401 of title 5, United*  
 6 *States Code, is amended—*

7 *(A) by striking “and” at the end of para-*  
 8 *graph (33);*

9 *(B) by striking the period at the end of*  
 10 *paragraph (34) and inserting “; and”; and*

11 *(C) by adding at the end the following:*

12 *“(35) ‘Federal Protective Service Officer’ has the*  
 13 *meaning given that term in section 8331(29).”.*

14 *(2) DEDUCTIONS AND CONTRIBUTIONS.—*

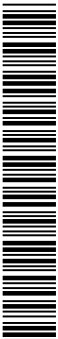
15 *(A) EMPLOYEE DEDUCTIONS AND CON-*  
 16 *TRIBUTIONS.—Section 8422(a)(3) of title 5,*  
 17 *United States Code, is amended by adding after*  
 18 *the item relating to a nuclear materials courier*  
 19 *the following:*

*“Federal Protective Service Officer ..... 7.5 ..... After the date of the en-*  
*actment of the Home-*  
*land Security Act of*  
*2002.”.*

20 *(B) AGENCY CONTRIBUTIONS.—Paragraphs*

21 *(1)(B)(i) and (3)(A) of section 8423(a) of title 5,*

22 *United States Code, are amended by inserting*



1           *“Federal Protective Service Officers,”* after *“fire-*  
2           *fighters,”* each place it appears.

3           (3) *PROVISIONS RELATING TO COMPUTATION OF*  
4           *BASIC ANNUITY.—*

5                   (A) *ANNUITY FOR CERTAIN OFFICERS*  
6           *MANDATORILY SEPARATED.—Section 8415 of*  
7           *title 5, United States Code, is amended by add-*  
8           *ing at the end the following:*

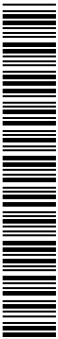
9           *“(l) The annuity of a Federal Protective Service Offi-*  
10          *cer retiring under section 8425(e) is—*

11                   *“(1) 2½ percent of the officer’s average pay mul-*  
12          *tiplied by so much of his total service, performed as*  
13          *a Federal Protective Service Officer or law enforce-*  
14          *ment officer, as does not exceed 20 years; plus*

15                   *“(2) 2 percent of the officer’s average pay multi-*  
16          *plied by so much of his total service as exceeds the*  
17          *number of years of service taken into account under*  
18          *paragraph (1).”.*

19                   (B) *TECHNICAL AND CONFORMING AMEND-*  
20          *MENTS.—*

21                           (i) *INAPPLICABILITY OF 1.1 PERCENT*  
22          *ACCRUAL RATE.—Section 8415(g)(2) of title*  
23          *5, United States Code, is amended by in-*  
24          *serting “Federal Protective Service Officer,”*  
25          *after “nuclear materials courier,”.*



1                   (ii) *ANNUITIES ON REEMPLOYMENT.*—

2                   Section 8468(b)(1)(A) of title 5, United  
3                   States Code, is amended by inserting “and  
4                   (l)” after “through (g)”.

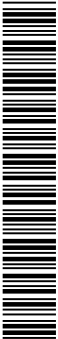
5                   (4) *IMMEDIATE RETIREMENT.*—Section 8412(d)  
6                   of title 5, United States Code, is amended by striking  
7                   “or nuclear materials courier” each place it appears  
8                   and inserting “nuclear materials courier, or Federal  
9                   Protective Service Officer”.

10                  (5) *MANDATORY SEPARATION.*—

11                  (A) *IN GENERAL.*—Section 8425(b) of title  
12                  5, United States Code, is amended by inserting  
13                  “Federal Protective Service Officer (other than  
14                  one described in subsection (e)),” after “law en-  
15                  forcement officer,” each place it appears.

16                  (B) *PROVISIONS RELATING TO CERTAIN IN-*  
17                  *CUMBENTS.*—Section 8425 of title 5, United  
18                  States Code, is amended by redesignating sub-  
19                  section (e) as subsection (f), and by inserting  
20                  after subsection (d) the following:

21                  “(e) A Federal Protective Service Officer who is em-  
22                  ployed by the Office of the Federal Protective Service of the  
23                  General Services Administration on the date of the enact-  
24                  ment of the Homeland Security Act of 2002, and who is  
25                  otherwise eligible for immediate retirement under section

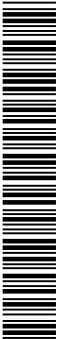


1 8412, shall be separated from the service on the last day  
2 of the month in which such officer becomes 57 years of age  
3 or completes 10 years of service as a Federal Protective  
4 Service Officer if then over that age. The Secretary of  
5 Homeland Security, under such regulations as the Sec-  
6 retary may prescribe, may exempt a Federal Protective  
7 Service Officer having exceptional skills and experience as  
8 a Federal Protective Service Officer from the automatic sep-  
9 aration provisions of this subsection until the officer be-  
10 comes 60 years of age. The Secretary shall notify the officer  
11 in writing of the date of separation at least 60 days before  
12 that date. Action to separate the officer is not effective, with-  
13 out the consent of the officer, until the last day of the month  
14 in which the 60-day notice expires.”.

15 (f) PAYMENTS.—

16 (1) IN GENERAL.—The Secretary shall pay into  
17 the Civil Service Retirement and Disability Fund an  
18 amount determined by the Director of the Office of  
19 Personnel Management to be necessary to reimburse  
20 the Fund for any estimated increase in the unfunded  
21 liability of the Fund resulting from the amendments  
22 made by subsection (e).

23 (2) TIMING.—The Secretary shall pay the  
24 amount so determined in 5 equal annual installments  
25 with interest computed at the rate used in the most



1       *recent valuation of the Civil Service Retirement Sys-*  
2       *tem, with the first payment thereof due by the end of*  
3       *fiscal year 2003.*

4       *(g) LAW ENFORCEMENT PAY.—*

5               *(1) PAY AND BENEFITS UNDER PROVISIONS OF*  
6       *FEPCA.—A Federal Protective Service Officer (within*  
7       *the meaning of section 8331(29) or 8401(35) of title*  
8       *5, United States Code) is entitled to the same pay*  
9       *and benefits as are provided by sections 403, 404, and*  
10       *407 of the Federal Employees Pay Comparability Act*  
11       *of 1990 (5 U.S.C. 5305 note) to a law enforcement of-*  
12       *ficer (as defined by section 402 of such Act).*

13               *(2) AWARD FOR FOREIGN LANGUAGE CAPABILI-*  
14       *TIES.—Section 4521 of title 5, United States Code is*  
15       *amended—*

16               *(A) by striking “and” at the end of para-*  
17       *graph (5);*

18               *(B) by striking the period at the end of*  
19       *paragraph (6) and inserting “; and”; and*

20               *(C) by adding at the end the following:*

21               *“(7) a Federal Protective Service Officer (within*  
22       *the meaning of section 8331(29) or 8401(35)).”.*

23               *(3) OVERTIME PAY.—Section 5542(a)(4) of title*  
24       *5, United States Code, is amended by inserting “or*  
25       *a Federal Protective Service Officer (within the mean-*



1        *ing of section 8331(29) or 8401(35))” after “law en-*  
2        *forcement officer”.*

3        *(h) LIMITATION.—Notwithstanding the authority of*  
4        *the Secretary to establish a human resources management*  
5        *system under section 10001 of title 5, United States Code*  
6        *(as added by this Act), or any other authority granted to*  
7        *the Secretary, the Secretary may not reduce the pay or ben-*  
8        *efits of a Federal Protective Service Officer, within the*  
9        *meaning of section 8331(29) or 8401(35) of such title (as*  
10       *added by this section), below the level provided by such title.*

11       ***TITLE X—COAST GUARD FUNC-***  
12       ***TIONS RELATING TO DEPART-***  
13       ***MENT OF HOMELAND SECUR-***  
14       ***ITY***

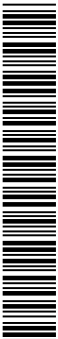
15       ***SEC. 1001. UNDER SECRETARY OF THE COAST GUARD.***

16       *(a) IN GENERAL.—Title 14, United States Code, is*  
17       *amended by inserting before section 41 the following:*

18       ***“§ 40. Under Secretary of the Coast Guard***

19       *“(a)(1) There is an Under Secretary of the Coast*  
20       *Guard appointed from civilian life by the President, by and*  
21       *with the advice and consent of the Senate. The Under Sec-*  
22       *retary of the Coast Guard is the head of the Coast Guard.*

23       *“(2) A person may not be appointed as Under Sec-*  
24       *retary of the Coast Guard within five years after relief from*



1 *active duty as a commissioned officer of a regular compo-*  
2 *nent of an armed force.*

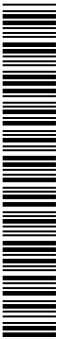
3       “(b) *Subject to the authority, direction, and control of*  
4 *the Secretary of the department in which the Coast Guard*  
5 *is operating, the Under Secretary of the Coast Guard is*  
6 *responsible for, and has the authority necessary to conduct,*  
7 *all affairs of the Coast Guard.*

8       “(c) *After first informing the Secretary of the depart-*  
9 *ment in which the Coast Guard is operating, the Under*  
10 *Secretary of the Coast Guard may make such recommenda-*  
11 *tions to Congress relating to the Coast Guard as the Under*  
12 *Secretary considers appropriate.*

13       “(d) *The Under Secretary of the Coast Guard may as-*  
14 *sign such of Under Secretary’s functions, powers, and duties*  
15 *as the Under Secretary considers appropriate to the Com-*  
16 *mandant. Officers of the Coast Guard shall, as directed by*  
17 *the Under Secretary of the Coast Guard, report on any mat-*  
18 *ter to the Under Secretary of the Coast Guard or the Com-*  
19 *mandant.*

20       “(e) *In addition to the other duties of the Under Sec-*  
21 *retary of the Coast Guard, the Under Secretary shall be re-*  
22 *sponsible for acting as the liaison to the Department of*  
23 *Homeland Security with respect to all Coast Guard func-*  
24 *tions.*

25       “(f) *The Under Secretary of the Coast Guard may—*





1           “(1) assign, detail, and prescribe the duties of of-  
2       ficers and members of the Coast Guard and civilian  
3       personnel of the Coast Guard; and

4           “(2) prescribe regulations to carry out his or her  
5       functions, powers, and duties under law.”.

6       (b) *CLERICAL AMENDMENT.*—The table of sections at  
7       the beginning of chapter 3 of title 14, United States Code,  
8       is amended by inserting before the item relating to section  
9       41 the following:

          “40.     Under Secretary of the Coast Guard.”.

10       (c) *TRANSFER OF FUNCTIONS.*—

11           (1) *TRANSFER.*—There are transferred to the  
12       Under Secretary of the Coast Guard all functions that  
13       are vested by law, regulation, or Executive order in  
14       the Commandant of the Coast Guard.

15           (2) *REFERENCE.*—Any reference in any law,  
16       regulation, or Executive order to the Commandant of  
17       the Coast Guard with respect to a function trans-  
18       ferred under paragraph (1) is deemed to refer to the  
19       Under Secretary of the Coast Guard.

20       **SEC. 1002. MAINTENANCE OF ALLOCATIONS OF FUNDING**  
21                               **FOR COAST GUARD OPERATION AND MAINTENANCE.**  
22

23       (a) *IN GENERAL.*—Chapter 17 of title 14, United  
24       States Code, is amended by adding at the end the following:

1    **“§ 676. Maintenance of allocations for operation and**  
2                               **maintenance**

3           “(a) *IN GENERAL.*—Of the amount appropriated for  
4    *operation and maintenance of the Coast Guard for each fis-*  
5    *cal year, not less than the percentage specified in subsection*  
6    *(b) with respect to a purpose shall be obligated or expended*  
7    *for expenses related to that purpose.*

8           “(b) *PURPOSES AND PERCENTAGES.*—The purposes  
9    *and percentages referred to in subsection (a) are, respec-*  
10   *tively, the following:*

11               “(1) *For search and rescue, 12 percent.*

12               “(2) *For drug interdiction, 13 percent.*

13               “(3) *For fisheries law enforcement, 11 percent.*

14               “(4) *For interdiction of migrants, 4 percent.*

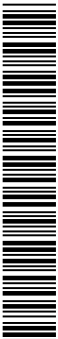
15               “(5) *For environmental law enforcement, 8 per-*  
16    *cent.*

17               “(6) *For marine safety, 5 percent.”.*

18           (b) *TECHNICAL CORRECTION; CLERICAL AMEND-*  
19    *MENT.*—Chapter 17 of title 14, United States Code, is  
20    *amended—*

21               (1) *by redesignating the second section 673 (re-*  
22    *lating to “Small boat station rescue capability”) and*  
23    *section 674 in order as sections 674 and 675; and*

24               (2) *in the table of sections at the beginning of the*  
25    *chapter by striking the items relating to “Small boat*



1        *rescue capability” and “Small boat station closures”*

2        *and inserting the following:*

*“674. Small boat rescue capability.*

*“675. Small boat station closures.*

*“676. Maintenance of allocations for operation and maintenance.”.*

